



Conference Reports

Appropriations Implementing and Conforming Bills

Fiscal Year 2007-2008

SB 2802 – Appropriations Implementing
CS/CS/SB 450 – Florida Teachers Lead Program Stipend
CS/SB 1046 – Education
CS/SB 1060 – Educational Facilities
CS/SB 1064 – Facility Enhancement Challenge Grant Program
CS/SB 1088 – Due Process
CS/SB 1100 – Securities Transactions Regulation
CS/SB 1104 – Vessels/Registration Fee
CS/SB 1116 – Health Care
CS/SB 1124 Home Services/Persons with Disabilities
CS/SB 1126 – Statewide Tobacco Education and Prevention
CS/SB 1134 – Transportation
CS/SB 1420 – State Employment
HB 7063 – Excise Taxes on Fuel and Other Pollutants
HB 7065 -- Medicaid
HB 7069 – Pari-mutuel Wagering Trust Fund
HB 7085 – Retirement

Bill No. SB 2802, 1st Eng.



403404

Senate

CHAMBER ACTION

House

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The Conference Committee on SB 2802, 1st Eng. recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. It is the intent of the Legislature that the implementing and administering provisions of this act apply to the General Appropriations Act for the 2007-2008 fiscal year.

Section 2. In order to implement Specific Appropriations 7, 8, and 86 through 91 of the 2007-2008 General Appropriations Act, the calculations of the Florida Education Finance Program for the 2007-2008 fiscal year in the document entitled "Public School Funding--The Florida Education Finance Program" dated April 30, 2007, and filed with the Secretary of the Senate are incorporated by reference for the purpose of displaying the calculations used by the Legislature, consistent with the requirements of the Florida Statutes, in making appropriations for the Florida Education



1 Finance Program.

2 Section 3. In order to implement Specific
3 Appropriation 388 of the 2007-2008 General Appropriations Act,
4 and notwithstanding s. 394.908(3)(a) and (b), Florida
5 Statutes, funds appropriated for forensic mental health
6 treatment services in Specific Appropriation 388 shall be
7 allocated to the areas of the state having the greatest demand
8 for services and treatment capacity. This section expires July
9 1, 2008.

10 Section 4. In order to implement Specific
11 Appropriations 311 and 321 of the 2007-2008 General
12 Appropriations Act, the Department of Children and Family
13 Services shall ensure that all public and private agencies and
14 institutions participating in child welfare cases enter
15 information specified by rule of the department into the
16 Florida Safe Families Network in order to maintain the
17 accuracy and usefulness of the system. The Florida Safe
18 Families Network is intended to be the department's automated
19 child welfare case-management system designed to provide child
20 welfare workers with a mechanism for managing child welfare
21 cases more efficiently and tracking children and families more
22 effectively. The department shall coordinate with the Office
23 of the State Courts Administrator and the Statewide Guardian
24 Ad Litem Office for the purpose of providing any judge or
25 magistrate and any guardian ad litem assigned to a dependency
26 court case with access to information in the Florida Safe
27 Families Network relating to a child welfare case which is
28 required to be filed with the court pursuant to chapter 39,
29 Florida Statutes, by the date of the network's release during
30 the 2007-2008 fiscal year. The department shall report to the
31 Governor, the President of the Senate, and the Speaker of the



1 House of Representatives by February 1, 2008, with respect to
2 progress on providing access to the Florida Safe Families
3 Network as provided in this section. This section expires July
4 1, 2008.

5 Section 5. In order to implement Specific
6 Appropriation 467 of the 2007-2008 General Appropriations Act,
7 subsection (17) is added to section 253.03, Florida Statutes,
8 to read:

9 253.03 Board of trustees to administer state lands;
10 lands enumerated.--

11 (17) Notwithstanding subsections (1)-(16), for the
12 2007-2008 fiscal year only, and upon approval of the Board of
13 Trustees of the Internal Improvement Trust Fund if necessary,
14 the Division of State Lands of the Department of Environmental
15 Protection shall lease the existing South Florida Evaluation
16 and Treatment Center complex in Miami-Dade County, currently
17 under lease to the Department of Children and Family Services,
18 to Miami-Dade County for the amount of \$1 per year for 99
19 years to be used by the county for its expanded jail diversion
20 program. The lease of the property shall take place in the
21 2007-2008 fiscal year, and Miami-Dade County shall sublease
22 the facility to the existing lessee for \$1 per year until the
23 new South Florida Evaluation and Treatment Center is completed
24 on or about April 2008. This subsection expires July 1, 2008.

25 Section 6. In order to fulfill legislative intent
26 regarding the use of funds contained in Specific
27 Appropriations 741, 755, 766, and 1232 of the 2007-2008
28 General Appropriations Act, the Department of Corrections and
29 the Department of Juvenile Justice may expend appropriated
30 funds to assist in defraying the costs of impacts that are
31 incurred by a municipality or county and associated with



1 opening or operating a facility under the authority of the
2 respective department which is located within that
3 municipality or county. The amount that is to be paid under
4 this section for any facility may not exceed 1 percent of the
5 facility construction cost, less building impact fees imposed
6 by the municipality or by the county if the facility is
7 located in the unincorporated portion of the county. This
8 section expires July 1, 2008.

9 Section 7. In order to implement Specific
10 Appropriations 730 through 830 and 868 through 899 of the
11 2007-2008 General Appropriations Act, subsection (4) of
12 section 216.262, Florida Statutes, is amended to read:

13 216.262 Authorized positions.--

14 (4) Notwithstanding the provisions of this chapter on
15 increasing the number of authorized positions, and for the
16 2007-2008 ~~2006-2007~~ fiscal year only, if the actual inmate
17 population of the Department of Corrections exceeds the inmate
18 population projections of the February 16, 2007 March 21,
19 ~~2006~~, Criminal Justice Estimating Conference by 1 percent for
20 2 consecutive months or 2 percent for any month, the Executive
21 Office of the Governor, with the approval of the Legislative
22 Budget Commission, shall immediately notify the Criminal
23 Justice Estimating Conference, which shall convene as soon as
24 possible to revise the estimates. The Department of
25 Corrections may then submit a budget amendment requesting the
26 establishment of positions in excess of the number authorized
27 by the Legislature and additional appropriations from
28 unallocated general revenue sufficient to provide for
29 essential staff, fixed capital improvements, and other
30 resources to provide classification, security, food services,
31 health services, and other variable expenses within the



1 institutions to accommodate the estimated increase in the
2 inmate population. All actions taken pursuant to the authority
3 granted in this subsection shall be subject to review and
4 approval by the Legislative Budget Commission. This subsection
5 expires July 1, 2008 ~~2007~~.

6 Section 8. In order to implement Specific
7 Appropriations 913, 915, and 1161A through 1161AI of the
8 2007-2008 General Appropriations Act, paragraphs (c), (d), and
9 (e) are added to subsection (3) of section 216.292, Florida
10 Statutes, to read:

11 216.292 Appropriations nontransferable; exceptions.--

12 (3) The following transfers are authorized with the
13 approval of the Executive Office of the Governor for the
14 executive branch or the Chief Justice for the judicial branch,
15 subject to the notice and objection provisions of s. 216.177:

16 (c) The transfer of appropriations for operations from
17 general revenue between categories of appropriations within
18 each criminal conflict and civil regional counsel budget
19 entity. This paragraph expires July 1, 2008.

20 (d) The transfer of appropriations for operations from
21 general revenue between criminal conflict and civil regional
22 counsel budget entities. This paragraph expires July 1, 2008.

23 (e) The transfer of appropriations for operations from
24 general revenue between criminal conflict and civil regional
25 counsel budget entities and the child dependency and civil
26 conflict case appropriation category and the criminal conflict
27 case costs appropriation category within the Justice
28 Administrative Commission. This paragraph expires July 1,
29 2008.

30 Section 9. In order to implement Specific
31 Appropriations 1388 and 1389 of the 2007-2008 General



1 Appropriations Act, the Department of Legal Affairs is
2 authorized to expend appropriated funds in Specific
3 Appropriations 1388 and 1389 on the same programs that were
4 funded by the department pursuant to specific appropriations
5 made in general appropriations acts in prior years.

6 Section 10. In order to implement Specific
7 Appropriation 1297 of the 2007-2008 General Appropriations
8 Act, paragraph (d) of subsection (4) of section 932.7055,
9 Florida Statutes, is amended to read:

10 932.7055 Disposition of liens and forfeited
11 property.--

12 (4) The proceeds from the sale of forfeited property
13 shall be disbursed in the following priority:

14 (d) Notwithstanding any other provision of this
15 subsection, and for the 2007-2008 ~~2006-2007~~ fiscal year only,
16 the funds in a special law enforcement trust fund established
17 by the governing body of a municipality may be expended to
18 reimburse the general fund of the municipality for moneys
19 advanced from the general fund to the special law enforcement
20 trust fund prior to October 1, 2001. This paragraph expires
21 July 1, 2008 ~~2007~~.

22 Section 11. In order to implement Specific
23 Appropriation 1169 of the 2007-2008 General Appropriations
24 Act, subsection (3) of section 985.686, Florida Statutes, is
25 amended to read:

26 985.686 Shared county and state responsibility for
27 juvenile detention.--

28 (3) Each county shall pay the costs of providing
29 detention care, exclusive of the costs of any preadjudicatory
30 nonmedical educational or therapeutic services and \$2.5
31 million provided for additional medical and mental health care



1 at the detention centers, for juveniles for the period of time
2 prior to final court disposition. The department shall develop
3 an accounts payable system to allocate costs that are payable
4 by the counties.

5 Section 12. In order to implement the appropriation of
6 funds in Special Categories-Risk Management Insurance of the
7 2007-2008 General Appropriations Act, and pursuant to the
8 notice, review, and objection procedures of s. 216.177,
9 Florida Statutes, the Executive Office of the Governor is
10 authorized to transfer funds appropriated in the appropriation
11 category "Special Categories-Risk Management Insurance" of the
12 2007-2008 General Appropriations Act between departments in
13 order to align the budget authority granted with the premiums
14 paid by each department for risk management insurance. This
15 section expires July 1, 2008.

16 Section 13. In order to implement the appropriation of
17 funds in Special Categories-Transfer to Department of
18 Management Services-Human Resources Services Purchased Per
19 Statewide Contract of the 2007-2008 General Appropriations
20 Act, and pursuant to the notice, review, and objection
21 procedures of s. 216.177, Florida Statutes, the Executive
22 Office of the Governor is authorized to transfer funds
23 appropriated in the appropriation category "Special
24 Categories-Transfer to Department of Management Services-Human
25 Resources Services Purchased Per Statewide Contract" of the
26 2007-2008 General Appropriations Act between departments in
27 order to align the budget authority granted with the
28 assessments that must be paid by each agency to the Department
29 of Management Services for human resource management services.
30 This section expires July 1, 2008.

31 Section 14. In order to implement Specific



1 Appropriations 2942 through 2950 of the 2007-2008 General
2 Appropriations Act, paragraph (a) of subsection (3) and
3 subsection (6) of section 287.17, Florida Statutes, are
4 reenacted to read:

5 287.17 Limitation on use of motor vehicles and
6 aircraft.--

7 (3)

8 (a) The term "official state business" may not be
9 construed to permit the use of a motor vehicle for commuting
10 purposes, unless special assignment of a motor vehicle is
11 authorized as a perquisite by the Department of Management
12 Services, required by an employee after normal duty hours to
13 perform duties of the position to which assigned, or
14 authorized for an employee whose home is the official base of
15 operation.

16 (6) It is the intention of the Legislature that
17 persons traveling on state aircraft for purposes consistent
18 with, but not necessarily constituting, official state
19 business may travel only when accompanying persons who are
20 traveling on official state business and that such persons
21 shall pay the state for all costs associated with such travel.
22 Notwithstanding paragraph (3)(a), a person traveling on state
23 aircraft for purposes other than official state business shall
24 pay for any trip not exclusively for state business by paying
25 a prorated share of all fixed and variable expenses related to
26 the ownership, operation, and use of such aircraft.

27 Section 15. The amendment of s. 287.17, Florida
28 Statutes, as carried forward by this act from chapters 2005-71
29 and 2006-26, Laws of Florida, shall expire July 1, 2008, and
30 the text of that section shall revert to that in existence on
31 June 30, 2005, except that any amendments to such text enacted



1 other than by chapters 2005-71 and 2006-26, Laws of Florida,
2 shall be preserved and continue to operate to the extent that
3 such amendments are not dependent upon the portions of such
4 text which expire pursuant to this section.

5 Section 16. In order to implement Specific
6 Appropriations 2286A and 2915 through 2928 of the 2007-2008
7 General Appropriations Act, subsections (3) and (4) of section
8 255.249, Florida Statutes, are amended, and subsection (6) is
9 added to that section, to read:

10 255.249 Department of Management Services;
11 responsibility; department rules.--

12 (3)(a) The department shall, to the extent feasible,
13 coordinate the vacation of privately owned leased space with
14 the expiration of the lease on that space and, when a lease is
15 terminated before expiration of its base term, will make a
16 reasonable effort to place another state agency in the space
17 vacated. Any state agency may lease the space in any building
18 that was subject to a lease terminated by a state agency for a
19 period of time equal to the remainder of the base term without
20 the requirement of competitive bidding.

21 (b) The department shall annually publish a master
22 leasing report ~~that lists, by agency, all leases that are due~~
23 ~~to expire within 24 months. The annual report must include the~~
24 ~~following information for each lease: location, size of leased~~
25 ~~space, current cost per leased square foot, lease expiration~~
26 ~~date, and a determination of whether sufficient state-owned~~
27 ~~office space will be available at the expiration of the lease~~
28 ~~to house affected employees. The report must also include a~~
29 ~~list of amendments and supplements to and waivers of terms and~~
30 ~~conditions in lease agreements that have been approved~~
31 ~~pursuant to s. 255.25(2)(a) during the previous 12 months and~~



1 ~~an-associated-comprehensive-analysis,-including-finaneial~~
2 ~~implications,-showing-that-any-amendment,-supplement,-or~~
3 ~~waiver-is-in-the-state's-long-term-best-interest-~~ The
4 department shall furnish the master leasing this report to the
5 Executive Office of the Governor and the Legislature by
6 September 15 of each year which provides the following
7 information: This paragraph expires July 1, 2007-

8 1. A list, by agency and by geographic market, of all
9 leases that are due to expire within 24 months.

10 2. Details of each lease, including location, size,
11 cost per leased square foot, lease-expiration date, and a
12 determination of whether sufficient state-owned office space
13 will be available at the expiration of the lease to
14 accommodate affected employees.

15 3. A list of amendments and supplements to and waivers
16 of terms and conditions in lease agreements that have been
17 approved pursuant to s. 255.25(2)(a) during the previous 12
18 months and an associated comprehensive analysis, including
19 financial implications, showing that any amendment,
20 supplement, or waiver is in the state's long-term best
21 interest.

22 4. Financial impacts to the pool rental rate due to
23 the sale, removal, acquisition, or construction of pool
24 facilities.

25 5. Changes in occupancy rate, maintenance costs, and
26 efficiency costs of leases in the state portfolio. Changes to
27 occupancy costs in leased space by market and changes to space
28 consumption by agency and by market.

29 6. An analysis of portfolio supply and demand.

30 7. Cost-benefit analyses of acquisition, build, and
31 consolidation opportunities, recommendations for strategic



1 consolidation, and strategic recommendations for disposition,
2 acquisition, and building.

3 8. The updated plan required by s. 255.25(4) (c).

4 (c) By June 30 of each year, each state agency shall
5 annually provide to the department all information regarding
6 agency programs affecting the need for or use of space by that
7 agency, reviews of lease-expiration schedules for each
8 geographic area, active and planned full-time equivalent data,
9 business case analyses related to consolidation plans by an
10 agency, and current occupancy and relocation costs, inclusive
11 of furnishings, fixtures and equipment, data, and
12 communications.

13 (4) The department shall adopt ~~promulgate~~ rules
14 pursuant to chapter 120 providing:

15 (a) Methods for accomplishing the duties outlined in
16 subsection (1).

17 (b) Procedures for soliciting and accepting
18 competitive proposals for leased space of 5,000 square feet or
19 more in privately owned buildings, for evaluating the
20 proposals received, for exemption from competitive bidding
21 requirements of any lease the purpose of which is the
22 provision of care and living space for persons or emergency
23 space needs as provided in s. 255.25(10), and for the securing
24 of at least three documented quotes for a lease that is not
25 required to be competitively bid.

26 (c) A standard method for determining square footage
27 or any other measurement used as the basis for lease payments
28 or other charges.

29 (d) Methods of allocating space in both state-owned
30 office buildings and privately owned buildings leased by the
31 state based on use, personnel, and office equipment.



1 (e)1. Acceptable terms and conditions for inclusion in
2 lease agreements.

3 2. Such terms and conditions shall include, at a
4 minimum, the following clauses, which may not be amended,
5 supplemented, or waived:

6 a. As provided in s. 255.2502, "The State of Florida's
7 performance and obligation to pay under this contract is
8 contingent upon an annual appropriation by the Legislature."

9 b. "The Lessee shall have the right to terminate,
10 without penalty, this lease in the event a State-owned
11 building becomes available to the Lessee for occupancy in the
12 County of ~~-----~~, Florida, during the term of said lease for
13 the purposes for which this space is being leased upon giving
14 6 months' advance written notice to the Lessor by Certified
15 Mail, Return Receipt Requested."

16
17 This subparagraph expires July 1, 2008 2007.

18 (f) Maximum rental rates, by geographic areas or by
19 county, for leasing privately owned space.

20 (g) A standard method for the assessment of rent to
21 state agencies and other authorized occupants of state-owned
22 office space, notwithstanding the source of funds.

23 (h) For full disclosure of the names and the extent of
24 interest of the owners holding a 4-percent or more interest in
25 any privately owned property leased to the state or in the
26 entity holding title to the property, for exemption from such
27 disclosure of any beneficial interest which is represented by
28 stock in any corporation registered with the Securities and
29 Exchange Commission or registered pursuant to chapter 517,
30 which stock is for sale to the general public, and for
31 exemption from such disclosure of any leasehold interest in



1 property located outside the territorial boundaries of the
2 United States.

3 (i) For full disclosure of the names of all public
4 officials, agents, or employees holding any interest in any
5 privately owned property leased to the state or in the entity
6 holding title to the property, and the nature and extent of
7 their interest, for exemption from such disclosure of any
8 beneficial interest which is represented by stock in any
9 corporation registered with the Securities and Exchange
10 Commission or registered pursuant to chapter 517, which stock
11 is for sale to the general public, and for exemption from such
12 disclosure of any leasehold interest in property located
13 outside the territorial boundaries of the United States.

14 (j) A method for reporting leases for nominal or no
15 consideration.

16 (k) For a lease of less than 5,000 square feet, a
17 method for certification by the agency head or the agency
18 head's designated representative that all criteria for leasing
19 have been fully complied with and for the filing of a copy of
20 such lease and all supporting documents with the department
21 for its review and approval as to technical sufficiency.

22 (6) The department may contract for real estate
23 consulting or tenant brokerage services in order to carry out
24 its duties relating to the strategic leasing plan. The
25 contract shall be procured pursuant to s. 287.057. The vendor
26 that is awarded the contract shall be compensated by the
27 department, subject to the provisions of the contract, and
28 such compensation is subject to appropriation by the
29 Legislature. The real estate consultant or tenant broker may
30 not receive compensation directly from a lessor for services
31 that are rendered pursuant to the contract. Moneys paid to the



1 real estate consultant or tenant broker are exempt from any
2 charge imposed under s. 287.1345. Moneys paid by a lessor to
3 the department under a facility-leasing arrangement are not
4 subject to the charges imposed under s. 215.20.

5 Section 17. The amendments to s. 255.249, Florida
6 Statutes, made by this act shall expire July 1, 2008, and the
7 text of that section shall revert to that in existence on June
8 30, 2007, except that any amendments to such text enacted
9 other than by this act shall be preserved and continue to
10 operate to the extent that such amendments are not dependent
11 upon the portions of such text which expire pursuant to this
12 section.

13 Section 18. In order to implement Specific
14 Appropriations 2286A and 2915 through 2928 of the 2007-2008
15 General Appropriations Act, paragraph (d) of subsection (2)
16 and paragraph (c) of subsection (4) of section 255.25, Florida
17 Statutes, are amended, and paragraphs (f) and (g) are added to
18 subsection (3) of that section, to read:

19 255.25 Approval required prior to construction or
20 lease of buildings.--

21 (2)

22 (d) Notwithstanding paragraph (a) and except as
23 provided in ss. 255.249 and 255.2501, a state agency may not
24 lease a building or any part thereof unless prior approval of
25 the lease terms and conditions and of the need therefor is
26 first obtained from the Department of Management Services. The
27 department may not approve any term or condition in a lease
28 agreement which has been amended, supplemented, or waived
29 unless a comprehensive analysis, including financial
30 implications, demonstrates that such amendment, supplement, or
31 waiver is in the state's long-term best interest. Any approved



1 lease may include an option to purchase or an option to renew
2 the lease, or both, upon such terms and conditions as are
3 established by the department subject to final approval by the
4 head of the Department of Management Services and the
5 provisions of s. 255.2502. This paragraph expires July 1, 2008
6 2007.

7 (3)

8 (f) Notwithstanding s. 287.056(1), a state agency may,
9 at the sole discretion of the agency head or his or her
10 designee, use the services of a tenant broker to assist with a
11 competitive solicitation undertaken by the agency. In making
12 its determination whether to use a tenant broker, a state
13 agency shall consult with the department. A state agency may
14 not use the services of a tenant broker unless the tenant
15 broker is under a term contract with the state which complies
16 with paragraph (g). If a state agency uses the services of a
17 tenant broker with respect to a transaction, the agency may
18 not enter into a lease with any landlord to which the tenant
19 broker is providing brokerage services for that transaction.

20 (g) The Department of Management Services may,
21 pursuant to s. 287.042(2)(a), procure a term contract for real
22 estate consulting and brokerage services. A state agency may
23 not purchase services from the contract unless the contract
24 has been procured under s. 287.057(1), (2), or (3) after March
25 1, 2007, and contains the following provisions or
26 requirements:

27 1. Awarded brokers must maintain an office or presence
28 in the market served. In awarding the contract, preference
29 must be given to brokers that are licensed in this state under
30 chapter 475 and that have 3 or more years of experience in the
31 market served. The contract may be made with up to three



1 tenant brokers in order to serve the marketplace in the north,
2 central, and south areas of the state.

3 2. Each contracted tenant broker shall work under the
4 direction, supervision, and authority of the state agency,
5 subject to the rules governing lease procurements.

6 3. The department shall provide training for the
7 awarded tenant brokers concerning the rules governing the
8 procurement of leases.

9 4. Tenant brokers must comply with all applicable
10 provisions of s. 475.278.

11 5. Real estate consultants and tenant brokers shall be
12 compensated by the state agency, subject to the provisions of
13 the term contract, and such compensation is subject to
14 appropriation by the Legislature. A real estate consultant or
15 tenant broker may not receive compensation directly from a
16 lessor for services that are rendered under the term contract.
17 Moneys paid to a real estate consultant or tenant broker are
18 exempt from any charge imposed under s. 287.1345. Moneys paid
19 by a lessor to the state agency under a facility leasing
20 arrangement are not subject to the charges imposed under s.
21 215.20. All terms relating to the compensation of the real
22 estate consultant or tenant broker shall be specified in the
23 term contract and may not be supplemented or modified by the
24 state agency using the contract.

25 6. The department shall conduct periodic
26 customer-satisfaction surveys.

27 7. Each state agency shall report the following
28 information to the department:

29 a. The number of leases that adhere to the goal of the
30 workspace-management initiative of 180 square feet per FTE.

31 b. The quality of space leased and the adequacy of



1 tenant-improvement funds.

2 c. The timeliness of lease procurement, measured from
3 the date of the agency's request to the finalization of the
4 lease.

5 d. Whether cost-benefit analyses were performed before
6 execution of the lease in order to ensure that the lease is in
7 the best interest of the state.

8 e. The lease costs compared to market rates for
9 similar types and classifications of space according to the
10 official classifications of the Building Owners and Managers
11 Association.

12 (4)

13 (c) Because the state has a substantial financial
14 investment in state-owned buildings, it is legislative policy
15 and intent that when state-owned buildings meet the needs of
16 state agencies, agencies must fully use such buildings before
17 leasing privately owned buildings. By September 15, 2006, the
18 Department of Management Services shall create a 5-year plan
19 for implementing this policy. The department shall update this
20 plan annually, detailing proposed departmental actions to meet
21 the plan's goals and shall furnish this plan annually as part
22 of the master leasing report. ~~The department shall furnish~~
23 ~~this plan to the President of the Senate, the Speaker of the~~
24 ~~House of Representatives, and the Executive Office of the~~
25 ~~Governor by September 15 of each year.~~ This paragraph expires
26 July 1, 2008 ~~2007~~.

27 Section 19. The amendments to s. 255.25, Florida
28 Statutes, made by this act shall expire July 1, 2008, and the
29 text of that section shall revert to that in existence on June
30 30, 2007, except that any amendments to such text enacted
31 other than by this act shall be preserved and continue to



1 operate to the extent that such amendments are not dependent
2 upon the portions of such text which expire pursuant to this
3 section.

4 Section 20. In order to implement Specific
5 Appropriations 2915 through 2928 of the 2007-2008 General
6 Appropriations Act, subsection (7) of section 255.503, Florida
7 Statutes, is amended to read:

8 255.503 Powers of the Department of Management
9 Services.--The Department of Management Services shall have
10 all the authority necessary to carry out and effectuate the
11 purposes and provisions of this act, including, but not
12 limited to, the authority to:

13 (7)(a) Sell, lease, release, or otherwise dispose of
14 facilities in the pool in accordance with applicable law.

15 (b) No later than the date upon which the department
16 recommends to the Division of State Lands of the Department of
17 Environmental Protection the disposition of any facility
18 within the Florida Facilities Pool, the department shall
19 provide to the President of the Senate, the Speaker of the
20 House of Representatives, the Executive Office of the
21 Governor, and the Division of Bond Finance of the State Board
22 of Administration an analysis that includes:

23 1. The cost benefit of the proposed facility
24 disposition, including the facility's current operating
25 expenses, condition, and market value, and viable alternatives
26 for work space for impacted state employees.

27 2. The effect of the proposed facility disposition on
28 the financial status of the Florida Facilities Pool, including
29 the effect on rental rates and coverage requirement for the
30 bonds.

31



1 This paragraph expires July 1, 2008 2007.

2 Section 21. Notwithstanding s. 403.7095, Florida
3 Statutes, in order to implement Specific Appropriation 1907 of
4 the 2007-2008 General Appropriations Act, the Department of
5 Environmental Protection shall award:

6 (1) \$9,428,773 in grants equally to counties having
7 populations of fewer than 100,000 for waste tire, litter
8 prevention, recycling and education, and general solid waste
9 programs.

10 (2) \$2,941,932 to be used for Innovative Grants.

11
12 This section expires July 1, 2008.

13 Section 22. In order to implement Specific
14 Appropriations 2057 through 2082 of the 2007-2008 General
15 Appropriations Act, subsection (5) of section 320.08058,
16 Florida Statutes, is amended to read:

17 320.08058 Specialty license plates.--

18 (5) FLORIDA PANTHER LICENSE PLATES.--

19 (a) The department shall develop a Florida panther
20 license plate as provided in this section. Florida panther
21 license plates must bear the design of a Florida panther and
22 the colors that department approves. In small letters, the
23 word "Florida" must appear at the bottom of the plate.

24 (b) The department shall distribute the Florida
25 panther license plate annual use fee to in-the-following
26 manner-

27 ~~1.--Eighty-five-percent-must-be-deposited-in the~~
28 ~~Florida Panther Research and Management Trust Fund in the Fish~~
29 ~~and Wildlife Conservation Commission to be used for education~~
30 ~~and programs to protect the endangered Florida panther.~~

31 ~~2.--Fifteen-percent,-but-no-less-than-\$300,000,-must-be~~



1 ~~deposited-in-the-Florida-Communities-Trust-Fund-to-be-used~~
2 ~~pursuant-to-the-Florida-Communities-Trust-Act-~~

3 (c) A person or corporation that purchases 10,000 or
4 more panther license plates shall pay an annual use fee of \$5
5 per plate and an annual processing fee of \$2 per plate, in
6 addition to the applicable license tax required under s.
7 320.08.

8 Section 23. The amendments to s. 320.08058, Florida
9 Statutes, made by this act shall expire July 1, 2008, and the
10 text of that section shall revert to that in existence on June
11 30, 2007, except that any amendments to such text enacted
12 other than by this act shall be preserved and continue to
13 operate to the extent that such amendments are not dependent
14 upon the portions of the text which expire pursuant to this
15 section.

16 Section 24. In order to implement Specific
17 Appropriation 1553A of the 2007-2008 General Appropriations
18 Act, subsection (32) is added to section 581.031, Florida
19 Statutes, to read:

20 581.031 Department; powers and duties.--The department
21 has the following powers and duties:

22 (32) To conduct or cause to be conducted those
23 research projects on citrus disease, including, but not
24 limited to, citrus canker and citrus greening, which are
25 recommended by the Florida Citrus Production Research Advisory
26 Council, within the limits of appropriations made specifically
27 for such purpose. This subsection expires July 1, 2008.

28 Section 25. In order to implement specific
29 appropriations for salaries and benefits in the 2007-2008
30 General Appropriations Act, subsection (4) of section
31 110.1245, Florida Statutes, is amended to read:



110.1245 Savings sharing program; bonus payments;
other awards.--

(4)(a) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who demonstrate satisfactory service in the agency or to the state, in appreciation and recognition of such service. Such awards may not cost in excess of \$100 each plus applicable taxes.

(b) Notwithstanding paragraph (a), and for the 2007-2008 fiscal year only, agencies may additionally use funds for cash awards to state employees who demonstrate satisfactory service in the agency or to the state, in appreciation and recognition of such service. Awards may not exceed \$100 to any employee and shall be allocated from an agency's existing budget. An employee may not receive awards pursuant to this paragraph in excess of \$100 total during the fiscal year. By March 1, 2008, agencies that elect to make cash awards shall report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives the dollar value and number of such awards given. If available, any additional information concerning employee satisfaction and feedback should be provided. This paragraph expires July 1, 2008.

Section 26. In order to implement specific appropriations for salaries and benefits in the 2007-2008 General Appropriations Act, paragraph (a) of subsection (12) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.--

(12) HEALTH SAVINGS ACCOUNTS.--The department is authorized to establish health savings accounts for full-time and part-time state employees in association with a health



1 insurance plan option authorized by the Legislature and
2 conforming to the requirements and limitations of federal
3 provisions relating to the Medicare Prescription Drug,
4 Improvement, and Modernization Act of 2003.

5 (a)1. A member participating in this health insurance
6 plan option shall be eligible to receive an employer
7 contribution into the employee's health savings account from
8 the State Employees Health Insurance Trust Fund in an amount
9 to be determined by the Legislature. A member is not eligible
10 for an employer contribution upon termination of employment.
11 For the 2007-2008 ~~2006-2007~~ fiscal year, the state's monthly
12 contribution for employees having individual coverage shall be
13 \$41.66 and the monthly contribution for employees having
14 family coverage shall be \$83.33.

15 2. A member participating in this health insurance
16 plan option shall be eligible to deposit the member's own
17 funds into a health savings account.

18 Section 27. In order to implement Specific
19 Appropriations 1426 through 1602 of the 2007-2008 General
20 Appropriations Act, section 570.20, Florida Statutes, is
21 amended to read:

22 570.20 General Inspection Trust Fund.--

23 (1) All donations and all inspection fees and other
24 funds authorized and received from whatever source in the
25 enforcement of the inspection laws administered by the
26 department shall be paid into the General Inspection Trust
27 Fund of Florida, which is created in the office of the Chief
28 Financial Officer. All expenses incurred in carrying out the
29 provisions of the inspection laws shall be paid from this fund
30 as other funds are paid from the State Treasury. A percentage
31 of all revenue deposited in this fund, including transfers



1 from any subsidiary accounts, shall be deposited in the
2 General Revenue Fund pursuant to chapter 215, except that
3 funds collected for marketing orders shall pay at the rate of
4 3 percent.

5 (2) For the 2007-2008 fiscal year only and
6 notwithstanding any other provision of law to the contrary, in
7 addition to the spending authorized in subsection (1), moneys
8 in the General Inspection Trust Fund may be appropriated for
9 programs operated by the department which are related to the
10 programs authorized by this chapter. This subsection expires
11 July 1, 2008.

12 Section 28. In order to implement Specific
13 Appropriation 2761 of the 2007-2008 General Appropriations
14 Act, paragraph (b) of subsection (9) of section 320.08058,
15 Florida Statutes, is amended to read:

16 320.08058 Specialty license plates.--

17 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.--

18 (b) The license plate annual use fees are to be
19 annually distributed as follows:

20 1. Fifty-five percent of the proceeds from the Florida
21 Professional Sports Team plate must be deposited into the
22 Professional Sports Development Trust Fund within the Office
23 of Tourism, Trade, and Economic Development. These funds must
24 be used solely to attract and support major sports events in
25 this state. As used in this subparagraph, the term "major
26 sports events" means, but is not limited to, championship or
27 all-star contests of Major League Baseball, the National
28 Basketball Association, the National Football League, the
29 National Hockey League, the men's and women's National
30 Collegiate Athletic Association Final Four basketball
31 championship, or a horseracing or dogracing Breeders' Cup. All



1 funds must be used to support and promote major sporting
2 events, and the uses must be approved by the Florida Sports
3 Foundation.

4 2. The remaining proceeds of the Florida Professional
5 Sports Team license plate must be allocated to the Florida
6 Sports Foundation, a direct-support organization of the Office
7 of Tourism, Trade, and Economic Development. These funds must
8 be deposited into the Professional Sports Development Trust
9 Fund within the Office of Tourism, Trade, and Economic
10 Development. These funds must be used by the Florida Sports
11 Foundation to promote the economic development of the sports
12 industry; to distribute licensing and royalty fees to
13 participating professional sports teams; to promote education
14 programs in Florida schools that provide an awareness of the
15 benefits of physical activity and nutrition standards; to
16 partner with the Department of Education and the Department of
17 Health to develop a program that recognizes schools whose
18 students demonstrate excellent physical fitness or fitness
19 improvement; to institute a grant program for communities
20 bidding on minor sporting events that create an economic
21 impact for the state; to distribute funds to Florida-based
22 charities designated by the Florida Sports Foundation and the
23 participating professional sports teams; and to fulfill the
24 sports promotion responsibilities of the Office of Tourism,
25 Trade, and Economic Development.

26 3. The Florida Sports Foundation shall provide an
27 annual financial audit in accordance with s. 215.981 of its
28 financial accounts and records by an independent certified
29 public accountant pursuant to the contract established by the
30 Office of Tourism, Trade, and Economic Development as
31 specified in s. 288.1229(5). The auditor shall submit the



1 audit report to the Office of Tourism, Trade, and Economic
2 Development for review and approval. If the audit report is
3 approved, the office shall certify the audit report to the
4 Auditor General for review.

5 4. For the 2007-2008 ~~2006-2007~~ fiscal year only and
6 notwithstanding the provisions of subparagraphs 1. and 2.,
7 proceeds from the Professional Sports Development Trust Fund
8 may also be used for operational expenses of the Florida
9 Sports Foundation and financial support of the Sunshine State
10 Games. This subparagraph expires July 1, 2008 ~~2007~~.

11 Section 29. In order to implement Specific
12 Appropriation 2266 of the 2007-2008 General Appropriations
13 Act, subsection (1) of section 339.08, Florida Statutes, is
14 amended to read:

15 339.08 Use of moneys in State Transportation Trust
16 Fund.--

17 (1) The department shall expend moneys in the State
18 Transportation Trust Fund accruing to the department, in
19 accordance with its annual budget. The use of such moneys
20 shall be restricted to the following purposes:

21 (a) To pay administrative expenses of the department,
22 including administrative expenses incurred by the several
23 state transportation districts, but excluding administrative
24 expenses of commuter rail authorities that do not operate rail
25 service.

26 (b) To pay the cost of construction of the State
27 Highway System.

28 (c) To pay the cost of maintaining the State Highway
29 System.

30 (d) To pay the cost of public transportation projects
31 in accordance with chapter 341 and ss. 332.003-332.007.



1 (e) To reimburse counties or municipalities for
2 expenditures made on projects in the State Highway System as
3 authorized by s. 339.12(4) upon legislative approval.

4 (f) To pay the cost of economic development
5 transportation projects in accordance with s. 288.063.

6 (g) To lend or pay a portion of the operating,
7 maintenance, and capital costs of a revenue-producing
8 transportation project that is located on the State Highway
9 System or that is demonstrated to relieve traffic congestion
10 on the State Highway System.

11 (h) To match any federal-aid funds allocated for any
12 other transportation purpose, including funds allocated to
13 projects not located in the State Highway System.

14 (i) To pay the cost of county road projects selected
15 in accordance with the Small County Road Assistance Program
16 created in s. 339.2816.

17 (j) To pay the cost of county or municipal road
18 projects selected in accordance with the County Incentive
19 Grant Program created in s. 339.2817 and the Small County
20 Outreach Program created in s. 339.2818.

21 (k) To provide loans and credit enhancements for use
22 in constructing and improving highway transportation
23 facilities selected in accordance with the state-funded
24 infrastructure bank created in s. 339.55.

25 (l) To pay the cost of projects on the Florida
26 Strategic Intermodal System created in s. 339.61.

27 (m) To pay the cost of transportation projects
28 selected in accordance with the Transportation Regional
29 Incentive Program created in s. 339.2819.

30 (n) To pay administrative expenses incurred in
31 accordance with applicable laws for a multicounty



1 transportation or expressway authority created under chapter
2 343 or chapter 348, where jurisdiction for the authority
3 includes a portion of the State Highway System and the
4 administrative expenses are in furtherance of the duties and
5 responsibilities of the authority in the development of
6 improvements to the State Highway System. This paragraph
7 expires July 1, 2008.

8 (o) (a) To pay other lawful expenditures of the
9 department.

10 Section 30. In order to implement Specific
11 Appropriations 1621AB, 1621AD, 1621AR, and 1621AS of the
12 2007-2008 General Appropriations Act, subsection (5) of
13 section 216.292, Florida Statutes, is amended to read:

14 216.292 Appropriations nontransferable; exceptions.--

15 (5) (a) A transfer of funds may not result in the
16 initiation of a fixed capital outlay project that has not
17 received a specific legislative appropriation, except that
18 federal funds for fixed capital outlay projects for the
19 Department of Military Affairs, which do not carry a
20 continuing commitment on future appropriations by the
21 Legislature, may be approved by the Executive Office of the
22 Governor for the purpose received, subject to the notice and
23 objection procedures set forth in s. 216.177.

24 (b) Notwithstanding paragraph (a), and for the
25 2007-2008 ~~2006-2007~~ fiscal year only, the Governor may
26 recommend the initiation of fixed capital outlay projects
27 funded by grants awarded by the Federal Emergency Management
28 Agency for FEMA Disaster Declarations 1539-DR-FL, 1545-DR-FL,
29 1551-DR-FL, 1561-DR-FL, 1595-DR-FL, 1602-DR-FL, 1609-DR-FL,
30 and EM3259-FL. All actions taken pursuant to the authority
31 granted in this paragraph are subject to review and approval



1 by the Legislative Budget Commission. This paragraph expires
2 July 1, 2008 2007.

3 Section 31. In order to implement Specific
4 Appropriation 2231 of the 2007-2008 General Appropriations
5 Act, subsection (5) of section 339.135, Florida Statutes, is
6 amended to read:

7 339.135 Work program; legislative budget request;
8 definitions; preparation, adoption, execution, and
9 amendment.--

10 (5) (a) ADOPTION OF THE WORK PROGRAM.--The original
11 approved budget for operational and fixed capital expenditures
12 for the department shall be the Governor's budget
13 recommendation and the first year of the tentative work
14 program, as both are amended by the General Appropriations Act
15 and any other act containing appropriations. In accordance
16 with the appropriations act, the department shall, prior to
17 the beginning of the fiscal year, adopt a final work program
18 which shall only include the original approved budget for the
19 department for the ensuing fiscal year together with any roll
20 forwards approved pursuant to paragraph (6) (c) and the portion
21 of the tentative work program for the following 4 fiscal years
22 revised in accordance with the original approved budget for
23 the department for the ensuing fiscal year together with said
24 roll forwards. The adopted work program may include only those
25 projects submitted as part of the tentative work program
26 developed under the provisions of subsection (4) plus any
27 projects which are separately identified by specific
28 appropriation in the General Appropriations Act and any roll
29 forwards approved pursuant to paragraph (6) (c). However, any
30 transportation project of the department which is identified
31 by specific appropriation in the General Appropriations Act



1 shall be deducted from the funds annually distributed to the
2 respective district pursuant to paragraph (4) (a). In addition,
3 the department shall not in any year include any project or
4 allocate funds to a program in the adopted work program that
5 is contrary to existing law for that particular year. Projects
6 shall not be undertaken unless they are listed in the adopted
7 work program.

8 (b) Notwithstanding paragraph (a), and for the
9 2007-2008 fiscal year only, the Department of Transportation
10 shall transfer funds to the Office of Tourism, Trade, and
11 Economic Development in an amount equal to \$25,400,000 for the
12 purpose of funding economic development transportation
13 projects. This transfer shall not reduce, delete, or defer any
14 existing projects funded, as of July 1, 2007, in the
15 Department of Transportation's 5-year work program. This
16 paragraph expires July 1, 2008.

17 (c) Notwithstanding paragraph (a), and for the
18 2007-2008 fiscal year only, the Department of Transportation
19 shall provide funds for the Seaport Strategic Planning and
20 Financing Task Force in an amount not to exceed \$75,000; the
21 preliminary engineering and environmental plans and activities
22 for the construction of an interchange on Suncoast Parkway and
23 Lutz Fern Road in an amount not to exceed \$975,000; the
24 Rehabilitation of Local Bridges in an amount not to exceed
25 \$300,000; and the East Winterberry Bridge Replacement in an
26 amount not to exceed \$500,000. To fund these specific
27 appropriations, the Department of Transportation shall not
28 reduce, delete, or defer any existing projects funded as of
29 July 1, 2007, in the 5-year work program. This paragraph
30 expires July 1, 2008.

31 Section 32. (1) In order to implement Specific



1 Appropriation 2188 of the 2007-2008 General Appropriations
2 Act, there is created the Seaport Strategic Planning and
3 Financing Task Force. The purpose of the task force is to
4 develop a strategic plan for Florida's seaports which will be
5 used to guide future policy development and financial
6 investments to enhance the state's economic competitiveness
7 with other states and internationally in the global economy.

8 (2) The Seaport Strategic Planning and Financing Task
9 Force shall specifically address the need for greater
10 integration of the seaport program authorized in chapter 311,
11 Florida Statutes, into the state's intermodal transportation
12 system and the need to make the seaport project selection
13 process and project funding structure more responsive to
14 market forces. In its deliberations, the task force shall
15 consider the findings and recommendations of the final report
16 prepared by the Department of Transportation dated July 2006,
17 entitled "Evaluate Florida's 14 Deepwater Seaports' Economic
18 Performance and the Return on Investment of State Funds"
19 (contract number C8A91).

20 (3) The Seaport Strategic Planning and Financing Task
21 Force shall be comprised of three members appointed by the
22 President of the Senate and three members appointed by the
23 Speaker of the House of Representatives, none of whom shall be
24 registered lobbyists. The Secretary of Transportation and the
25 director of the Governor's Office of Tourism, Trade, and
26 Economic Development shall also serve as voting members of the
27 task force. The President of the Senate and the Speaker of the
28 House of Representatives shall jointly appoint the chair from
29 among the membership.

30 (4) The task force members shall serve without
31 compensation. The task force shall be staffed by the Office of



1 Program Policy Analysis and Government Accountability
2 (OPPAGA). The Department of Transportation shall provide
3 assistance to the task force as requested, including providing
4 expert advice and funding assistance for OPPAGA to bring in
5 national and international consultants as deemed necessary to
6 meet the intent of this section.

7 (5) The task force shall report its findings and
8 recommendations, including any proposed statutory amendments
9 or recommended policy changes, to the Governor, the President
10 of the Senate, and the Speaker of the House of Representatives
11 no later than January 1, 2008.

12 Section 33. In order to implement Section 36 of the
13 2007-2008 General Appropriations Act, subsection (13) of
14 section 253.034, Florida Statutes, is amended to read:

15 253.034 State-owned lands; uses.--

16 (13) Notwithstanding the provisions of this section,
17 funds from the sale of property by the Department of Highway
18 Safety and Motor Vehicles located in Palm Beach County are
19 authorized to be deposited into the Highway Safety Operating
20 Trust Fund to facilitate the exchange as provided in the
21 General Appropriations Act, provided that at the conclusion of
22 both exchanges the values are equalized. This subsection
23 expires July 1, 2008 ~~2007~~.

24 Section 34. In order to implement Specific
25 Appropriation 2188A of the 2007-2008 General Appropriations
26 Act, subsection (3) of section 311.22, Florida Statutes, is
27 amended to read:

28 311.22 Additional authorization for funding certain
29 dredging projects.--

30 (3) For the 2007-2008 ~~2006-2007~~ fiscal year only and
31 notwithstanding the matching basis specified in subsection



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(1), funding for projects in subsection (1) shall require a minimum 25 percent match of funds received pursuant to this section. This subsection expires July 1, 2008 ~~2007~~.

Section 35. In order to implement Specific Appropriation 1621AD of the 2007-2008 General Appropriations Act and notwithstanding s. 252.37(5)(b), Florida Statutes, local governments that failed to apply for a waiver under s. 252.37, Florida Statutes, within the first 18 months following the declaration of a disaster resulting from Hurricanes Charley, Frances, Ivan, and Jeanne may submit applications for consideration by the Executive Office of the Governor until September 1, 2007. The Executive Office of the Governor may approve a waiver, subject to the requirement for legislative notice and review under s. 216.177, Florida Statutes, of all or a portion of the required match for public assistance projects for local governments if the Executive Office of the Governor determines that such a match requirement cannot be provided, or that doing so would impose a documented hardship on the local government, and if the local government applies for the waiver by the date specified in this section.

Section 36. In order to implement Specific Appropriation 2467 of the 2007-2008 General Appropriations Act, subsections (8) and (9) are added to section 509.302, Florida Statutes, to read:

509.302 Director of education; personnel; employment duties; compensation.--

(8) Revenue from administrative fines may be used to support this section. This subsection expires July 1, 2008.

(9) Notwithstanding subsection (7), up to \$250,000 may be designated to support the school-to-career transition programs available through statewide organizations in the



1 hospitality services field. This subsection expires July 1,
2 2008.

3 Section 37. In order to implement Specific
4 Appropriation 35B of the 2007-2008 General Appropriations Act,
5 paragraph (d) of subsection (3) of section 1013.64, Florida
6 Statutes, is amended to read:

7 1013.64 Funds for comprehensive educational plant
8 needs; construction cost maximums for school district capital
9 projects.--Allocations from the Public Education Capital
10 Outlay and Debt Service Trust Fund to the various boards for
11 capital outlay projects shall be determined as follows:

12 (3)

13 (d) Funds specifically appropriated for distribution
14 pursuant to this subsection distributed to the district school
15 boards shall be allocated solely based on the provisions of
16 paragraphs (1)(a) and (2)(a) and paragraph (a) of this
17 subsection. No individual school district projects shall be
18 funded off the top of funds allocated to district school
19 boards.

20 Section 38. The amendments to s. 1013.64, Florida
21 Statutes, made by this act shall expire July 1, 2008, and the
22 text of that section shall revert to that in existence on June
23 30, 2007, except that any amendments to such text enacted
24 other than by this act shall be preserved and continue to
25 operate to the extent that such amendments are not dependent
26 upon the portions of the text which expire pursuant to this
27 section.

28 Section 39. In order to implement Specific
29 Appropriation 1858 of the 2007-2008 General Appropriations
30 Act, subsection (6) of section 373.459, Florida Statutes, is
31 amended to read:



1 373.459 Funds for surface water improvement and
2 management.--

3 (6){a} The match requirement of subsection (2) shall
4 not apply to the Suwannee River Water Management District, the
5 Northwest Florida Water Management District, or a financially
6 disadvantaged small local government as defined in s.

7 403.885(5) .

8 ~~{b}--Notwithstanding the requirements of subsection~~
9 ~~{3}, the Ecosystem Management and Restoration Trust Fund and~~
10 ~~the Water Protection and Sustainability Trust Fund shall be~~
11 ~~used for the deposit of funds appropriated by the Legislature~~
12 ~~for the purposes of ss. 373.451-373.4595. The department shall~~
13 ~~administer all funds appropriated to or received for surface~~
14 ~~water improvement and management activities. Expenditure of~~
15 ~~the moneys shall be limited to the costs of details planning~~
16 ~~and plan and program implementation for priority surface water~~
17 ~~bodies. Moneys from the funds shall not be expended for~~
18 ~~planning for, or construction or expansion of, treatment~~
19 ~~facilities for domestic or industrial waste disposal.~~

20 ~~{c}--Notwithstanding the requirements of subsection~~
21 ~~{4}, the department shall authorize the release of money from~~
22 ~~the funds in accordance with the provisions of s. 373.501(2)~~
23 ~~and procedures in s. 373.59(4) and (5).~~

24 ~~{d}--Notwithstanding the requirements of subsection~~
25 ~~{5}, moneys in the Ecosystem Restoration and Management Trust~~
26 ~~Fund that are not needed to meet current obligations incurred~~
27 ~~under this section shall be transferred to the State Board of~~
28 ~~Administration, to the credit of the trust fund, to be~~
29 ~~invested in the manner provided by law. Interest received on~~
30 ~~such investments shall be credited to the trust fund.~~

31 {e} This subsection expires July 1, 2008 2007.



1 Section 40. In order to implement Specific
2 Appropriations 1852A and 1859 of the 2007-2008 General
3 Appropriations Act, subsection (3) is added to section 253.01,
4 Florida Statutes, to read:

5 253.01 Internal Improvement Trust Fund established.--

6 (3) In addition to the uses allowed in subsection (2)
7 for the 2007-2008 fiscal year, moneys in the Internal
8 Improvement Trust Fund are authorized to be transferred to the
9 Ecosystem Management and Restoration Trust Fund for grants and
10 aids to local governments for water projects as provided in
11 the General Appropriations Act. This subsection expires July
12 1, 2008.

13 Section 41. In order to implement Specific
14 Appropriations 1852A and 1859 of the 2007-2008 General
15 Appropriations Act, subsection (3) is added to section
16 403.890, Florida Statutes, to read:

17 403.890 Water Protection and Sustainability Program;
18 intent; goals; purposes.--

19 (3) In addition to the uses allowed in subsection (1)
20 for the 2007-2008 fiscal year, interest earnings accumulated
21 in the Water Protection and Sustainability Program Trust Fund
22 shall be transferred to the Ecosystem Management and
23 Restoration Trust Fund for grants and aids to local
24 governments for water projects as provided in the General
25 Appropriations Act. This subsection expires July 1, 2008.

26 Section 42. In order to implement Specific
27 Appropriations 1852A and 1859 of the 2007-2008 General
28 Appropriations Act, subsection (6) of section 201.15, Florida
29 Statutes, as amended by chapters 2005-92, 2006-1, 2006-185,
30 and 2006-231, Laws of Florida, is amended to read:

31 201.15 Distribution of taxes collected.--All taxes



1 collected under this chapter shall be distributed as follows
2 and shall be subject to the service charge imposed in s.
3 215.20(1), except that such service charge shall not be levied
4 against any portion of taxes pledged to debt service on bonds
5 to the extent that the amount of the service charge is
6 required to pay any amounts relating to the bonds:

7 (6) The lesser of two and twenty-eight hundredths
8 percent of the remaining taxes collected under this chapter or
9 \$36.1 million in each fiscal year shall be paid into the State
10 Treasury to the credit of the Invasive Plant Control Trust
11 Fund to carry out the purposes set forth in ss. 369.22 and
12 369.252 and for water projects as provided in the General
13 Appropriations Act.

14 Section 43. The amendments to s. 201.15, Florida
15 Statutes, made by this act shall expire July 1, 2008, and the
16 text of that section shall revert to that in existence on June
17 30, 2007, except that any amendments to such text enacted
18 other than by this act shall be preserved and continue to
19 operate to the extent that such amendments are not dependent
20 upon the portions of the text which expire pursuant to this
21 section.

22 Section 44. In order to implement Specific
23 Appropriations 1852A and 1859 of the 2007-2008 General
24 Appropriations Act, moneys in the Invasive Plant Control Trust
25 Fund are authorized to be transferred to the Ecosystem
26 Management and Restoration Trust Fund for grants and aids to
27 local governments for water projects as provided in the
28 General Appropriations Act. This section expires July 1, 2008.

29 Section 45. (1) In order to implement Specific
30 Appropriation 1695 in the 2007-2008 General Appropriations
31 Act, notwithstanding s. 420.9073, Florida Statutes, the



1 Florida Housing Finance Corporation is directed to establish a
2 Teachers' Down Payment Assistance Pilot Program. By rule, the
3 corporation shall set forth criteria for project selection and
4 funding.

5 (2) In order to assist in the recruitment and
6 retention of teachers, eligibility shall be limited to those
7 local governments whose local housing assistance plans include
8 the following:

9 (a) Down payment assistance shall be provided to
10 eligible persons who meet the following criteria, in addition
11 to other requirements of the plan, the person shall:

12 1. Be employed full time as a K-12 classroom teacher
13 in this state;

14 2. Be state-certified in a critical need area of
15 exceptional student education, mathematics, or science;

16 3. Declare his or her homestead and maintain residency
17 at his or her homestead;

18 4. Be employed in a full-time, permanent capacity; and

19 5. Demonstrate a 5-year minimum commitment to
20 continued employment as a K-12 classroom teacher in a public
21 school within the county of current employment.

22 (b) Compliance with the eligibility criteria shall be
23 verified on application and during the life of the loan by the
24 school district in which the teacher is employed.

25 (c) The program shall provide \$4,000 as down payment
26 assistance if the municipality, county, or appropriate
27 governmental subdivision or agency within which an eligible
28 recipient resides waives all impact fees that occur incidental
29 to the recipient's home purchase.

30 (d) Any lien on the recipient's property securing the
31 assistance provided under this program shall be released if



1 the recipient fulfills the 5-year commitment.

2 (3) Any undistributed funds remaining on June 1, 2008,
3 shall be distributed along with other State Housing Initiative
4 Partnership funds, as provided in s. 420.9073, Florida
5 Statutes.

6 Section 46. In order to implement Specific
7 Appropriation 2814 of the 2007-2008 General Appropriations
8 Act, section 322.025, Florida Statutes, is amended to read:

9 322.025 Driver improvement.--

10 (1) The department may implement programs to improve
11 the driving ability of the drivers of this state. Such
12 programs may include, but shall not be limited to, safety
13 awareness campaigns, driver training, and licensing
14 improvement. Motorcycle driver improvement programs
15 implemented pursuant to this section or s. 322.0255 shall be
16 funded by the motorcycle safety education fee collected
17 pursuant to s. 320.08(1)(c), which shall be deposited in the
18 Highway Safety Operating Trust Fund of the department and
19 appropriated for that purpose.

20 (2) Notwithstanding the provisions of s. 283.58, when
21 funds have been appropriated by the Legislature for the
22 purpose of providing safety awareness materials, the
23 department shall distribute to the public only materials that
24 do not include advertisements. Safety materials shall include,
25 but need not be limited to, Official Florida Driver Handbooks
26 provided by the department to the motoring public for the
27 purpose of education. The Official Florida Driver Handbook may
28 be distributed by the Department of Highway Safety and Motor
29 Vehicles only in accordance with this paragraph. Other
30 governmental entities, including secondary public schools,
31 wishing to obtain the Official Florida Driver Handbook must



1 use those books provided by the department. This subsection
2 expires July 1, 2008.

3 Section 47. In order to implement Section 51 of the
4 2007-2008 General Appropriations Act, section 570.957, Florida
5 Statutes, is created to read:

6 570.957 Farm-to-Fuel Grants Program.--

7 (1) As used in this section, the term:

8 (a) "Bioenergy" means useful, renewable energy
9 produced from organic matter through the conversion of the
10 complex carbohydrates in organic matter to energy. Organic
11 matter may either be used directly as a fuel, processed into
12 liquids and gases, or be a residue of processing and
13 conversion.

14 (b) "Department" means the Department of Agriculture
15 and Consumer Services.

16 (c) "Person" means an individual, partnership, joint
17 venture, private or public corporation, association, firm,
18 public service company, or any other public or private entity.

19 (d) "Renewable energy" means electrical, mechanical,
20 or thermal energy produced from a method that uses one or more
21 of the following fuels or energy sources: hydrogen, biomass,
22 solar energy, geothermal energy, wind energy, ocean energy,
23 waste heat, or hydroelectric power.

24 (2) The Farm-to-Fuel Grants Program is established
25 within the department to provide renewable energy matching
26 grants for demonstration, commercialization, research, and
27 development projects relating to bioenergy projects.

28 (a) Matching grants for bioenergy demonstration,
29 commercialization, research, and development projects may be
30 made to any of the following:

31 1. Municipalities and county governments.



1 2. Established for-profit companies licensed to do
2 business in the state.

3 3. Universities and colleges in the state.

4 4. Utilities located and operating within the state.

5 5. Not-for-profit organizations.

6 6. Other qualified persons, as determined by the
7 Department of Agriculture and Consumer Services.

8 (b) The department may adopt rules to provide for
9 allocation of grant funds by project type, application
10 requirements, ranking of applications, and awarding of grants
11 under this program.

12 (c) Factors for consideration in awarding grants may
13 include, but are not limited to, the degree to which:

14 1. The project produces bioenergy from Florida-grown
15 crops or biomass.

16 2. The project demonstrates efficient use of energy
17 and material resources.

18 3. Matching funds and in-kind contributions from an
19 applicant are available.

20 4. The project has a reasonable assurance of enhancing
21 the value of agricultural products or will expand agribusiness
22 in the state.

23 5. Preliminary market and feasibility research has
24 been conducted by the applicant or others and shows there is a
25 reasonable assurance of a potential market.

26 6. The project stimulates in-state capital investment
27 and economic development in metropolitan and rural areas,
28 including the creation of jobs and the future development of a
29 commercial market for bioenergy.

30 7. The project incorporates an innovative new
31 technology or an innovative application of an existing



1 technology.

2 (d) In evaluating and awarding grants under this
3 section, the department shall consult with and solicit input
4 from the Department of Environmental Protection.

5 (e) In determining the technical feasibility of grant
6 applications, the department shall coordinate and actively
7 consult with persons having expertise in renewable energy
8 technologies.

9 (f) In determining the economic feasibility of
10 bioenergy grant applications, the department shall consult
11 with the Office of Tourism, Trade, and Economic Development.

12 (3) This section expires July 1, 2008.

13 Section 48. In order to implement Sections 52, 53, and
14 54 of the 2007-2008 General Appropriations Act:

15 (1) The Florida Building Commission shall convene a
16 workgroup comprised of representatives from the Florida Energy
17 Commission, the Department of Community Affairs, the Building
18 Officials Association of Florida, the Florida Energy Office,
19 the Florida Home Builders Association, the Association of
20 Counties, the League of Cities, and other stakeholders to
21 develop a model residential energy efficiency ordinance that
22 provides incentives to meet energy efficiency standards. The
23 commission must report back to the Legislature with a
24 developed ordinance by March 1, 2008.

25 (2) The Florida Building Commission shall, in
26 consultation with the Florida Energy Commission, the Building
27 Officials Association of Florida, the Florida Energy Office,
28 the Florida Home Builders Association, the Association of
29 Counties, the League of Cities, and other stakeholders, review
30 the Florida Energy Code for Building Construction.
31 Specifically, the commission shall revisit the analysis of



1 cost-effectiveness that serves as the basis for energy
2 efficiency levels for residential buildings, identify
3 cost-effective means to improve energy efficiency in
4 commercial buildings, and compare the code to the
5 International Energy Conservation Code and the American
6 Society of Heating Air-Conditioning and Refrigeration
7 Engineers Standards 90.1 and 90.2. The commission shall
8 provide a report with a standard to the Legislature by March
9 1, 2008, that may be adopted for the construction of all new
10 residential, commercial, and government buildings.

11 (3) The Florida Building Commission, in consultation
12 with the Florida Solar Energy Center, the Florida Energy
13 Commission, the Florida Energy Office, the United States
14 Department of Energy, and the Florida Home Builders
15 Association, shall develop and implement a public awareness
16 campaign that promotes energy efficiency and the benefits of
17 building green by January 1, 2008. The campaign shall include
18 enhancement of an existing web site from which all citizens
19 can obtain information pertaining to green building practices,
20 calculate anticipated savings from use of those options, as
21 well as learn about energy efficiency strategies that may be
22 used in their existing home or when building a home. The
23 campaign shall focus on the benefits of promoting energy
24 efficiency to the purchasers of new homes, the various green
25 building ratings available, and the promotion of various
26 energy-efficient products through existing trade shows. The
27 campaign shall also include strategies for utilizing print
28 advertising, press releases, and television advertising to
29 promote voluntary utilization of green building practices.

30 (4) The Department of Environmental Protection shall
31 develop a public awareness campaign that promotes the



1 effective use of energy in the state and discourages all forms
2 of energy waste. The campaign shall also include strategies
3 for utilizing print advertising, press releases, and
4 television advertising to promote energy education and the
5 public dissemination of information on energy and its
6 environmental, economic, and social impact.

7 (5) This section expires July 1, 2008.

8 Section 49. In order to implement Section 48 of of the
9 2007-2008 General Appropriations Act:

10 (1) Research and demonstration cellulosic ethanol
11 plant.--There shall be constructed a multifaceted research and
12 demonstration cellulosic ethanol plant designed to conduct
13 research and to demonstrate and advance the commercialization
14 of cellulose-to-ethanol technology, including technology
15 licensed from the University of Florida, and to facilitate
16 further research and testing of multiple cellulosic feedstocks
17 in the state.

18 (2) The University of Florida shall act as the owner
19 and proprietor of the facility, which shall include a
20 permanent research and development laboratory operated as a
21 satellite facility of the Institute of Food and Agricultural
22 Sciences at the University of Florida. This facility shall be
23 used to convert the initially treated material to the final
24 ethanol product.

25 (3) The facility shall be located near an industrial
26 site with infrastructure already developed to avoid or reduce
27 significant capital costs for waste treatment and roads, shall
28 be served by a range of suppliers and transportation
29 companies, and shall be in good proximity to gasoline and
30 ethanol blending facilities on either coast of the state. The
31 industrial site shall have the capacity to provide steam and



1 electric power, waste treatment, and a steady stream of
2 feedstocks, including, but not limited to, bagasse, woody
3 biomass, and cane field residues, to allow a commercial scale
4 plant to operate year around.

5 (4) The facility shall be located near preexisting
6 onsite technical support staff and other resources for
7 electrical, mechanical, and instrumentation services. In
8 addition, the facility shall have access to preexisting onsite
9 laboratory facilities and scientific personnel and shall
10 include the critical aspects of connecting to existing
11 facilities and meeting construction codes and permit
12 requirements.

13 (5) There shall be a scientific and technical advisory
14 panel to advise on the technology to be applied.

15 (6) Subject to the rights of any third parties arising
16 under any licenses granted by the university or its affiliates
17 prior to the effective date of this act, ownership of all
18 patents, copyrights, trademarks, licenses, and rights or
19 interests shall vest in the university on behalf of the state.
20 The university, pursuant to s. 1004.23, Florida Statutes,
21 shall have the right to use and the right to retain derived
22 revenues subject to the continuing approval of the
23 Legislature.

24 (7) The Senior Vice President for the Institute of
25 Food and Agricultural Sciences at the University of Florida
26 shall ensure that applicable, nonproprietary research results
27 and technologies from the plant authorized under this
28 initiative are adapted, made available, and disseminated
29 through its respective services, as appropriate.

30 (8) Within 2 years after enactment of this act, the
31 Senior Vice President for the Institute of Food and



1 Agricultural Sciences at the University of Florida shall
2 submit to the President of the Senate and the Speaker of the
3 House of Representatives a report on the activities conducted
4 under this section.

5 (9) This section expires on July 1, 2008.

6 Section 50. In order to implement Section 49 of the
7 2007-2008 General Appropriations Act, subsection (6) of
8 section 377.804, Florida Statutes, is amended to read:

9 377.804 Renewable Energy Technologies Grants
10 Program.--

11 ~~{6}--The department shall coordinate and actively~~
12 ~~consult with the Department of Agriculture and Consumer~~
13 ~~Services during the review and approval process of grants~~
14 ~~relating to bioenergy projects for renewable energy~~
15 ~~technology, and the departments shall jointly determine the~~
16 ~~grant awards to these bioenergy projects. No grant funding~~
17 ~~shall be awarded to any bioenergy project without such joint~~
18 ~~approval. Factors for consideration in awarding grants may~~
19 ~~include, but are not limited to, the degree to which~~

20 ~~{a}--The project stimulates in-state capital investment~~
21 ~~and economic development in metropolitan and rural areas,~~
22 ~~including the creation of jobs and the future development of a~~
23 ~~commercial market for bioenergy.~~

24 ~~{b}--The project produces bioenergy from Florida-grown~~
25 ~~crops or biomass.~~

26 ~~{c}--The project demonstrates efficient use of energy~~
27 ~~and material resources.~~

28 ~~{d}--The project fosters overall understanding and~~
29 ~~appreciation of bioenergy technologies.~~

30 ~~{e}--Matching funds and in-kind contributions from an~~
31 ~~applicant are available.~~



1 ~~{f}--The-project-duration-and-the-timeline-for~~
2 ~~expenditures-are-acceptable-~~

3 ~~{g}--The-project-has-a-reasonable-assurance-of~~
4 ~~enhancing-the-value-of-agricultural-products-or-will-expand~~
5 ~~agribusiness-in-the-state-~~

6 ~~{h}--Preliminary-market-and-feasibility-research-has~~
7 ~~been-conducted-by-the-applicant-or-others-and-shows-there-is-a~~
8 ~~reasonable-assurance-of-a-potential-market-~~

9 Section 51. In order to implement Specific
10 Appropriations 2659, 2661, 2662, and 2665 of the 2007-2008
11 General Appropriations Act, for the 2007-2008 fiscal year only
12 and notwithstanding any conflicting requirements of section 4
13 of chapter 2006-12, Laws of Florida, the Department of
14 Financial Services may expend \$846,021 of the funds
15 appropriated by section 4 of chapter 2006-12, Laws of Florida,
16 for salaries and related expenses.

17 Section 52. The amendments to s. 377.804, Florida
18 Statutes, made by this act shall expire July 1, 2008, and the
19 text of that section shall revert to that in existence on June
20 30, 2007, except that any amendments to such text enacted
21 other than by this act shall be preserved and continue to
22 operate to the extent that such amendments are not dependent
23 upon the portions of such text which expire pursuant to this
24 section.

25 Section 53. A section of this act that implements a
26 specific appropriation or specifically identified proviso
27 language in the 2007-2008 General Appropriations Act is void
28 if the specific appropriation or specifically identified
29 proviso language is vetoed. A section of this act that
30 implements more than one specific appropriation or more than
31 one portion of specifically identified proviso language in the



1 2007-2008 General Appropriations Act is void if all the
2 specific appropriations or portions of specifically identified
3 proviso language are vetoed.

4 Section 54. If any other act passed in 2007 contains a
5 provision that is substantively the same as a provision in
6 this act, but that removes or is otherwise not subject to the
7 future repeal applied to such provision by this act, the
8 Legislature intends that the provision in the other act shall
9 take precedence and shall continue to operate, notwithstanding
10 the future repeal provided by this act.

11 Section 55. If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 invalidity does not affect other provisions or applications of
14 the act which can be given effect without the invalid
15 provision or application, and to this end the provisions of
16 this act are severable.

17 Section 56. Except as otherwise expressly provided in
18 this act, this act shall take effect July 1, 2007; or, if this
19 act fails to become a law until after that date, it shall take
20 effect upon becoming a law and shall operate retroactively to
21 July 1, 2007.

22
23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27
28 and insert:

29 A bill to be entitled

30 An act implementing the 2007-2008 General
31 Appropriations Act; providing legislative



1 intent; providing for use of specified
2 calculations with respect to the Florida
3 Education Finance Program; requiring that funds
4 appropriated for forensic mental health
5 treatment services be allocated to the areas of
6 the state having the greatest demand for
7 services and treatment capacity; requiring the
8 Department of Children and Family Services to
9 ensure that certain information regarding child
10 welfare cases is entered into the Florida Safe
11 Families Network; requiring that the department
12 coordinate with the Office of the State Courts
13 Administrator and the Statewide Guardian Ad
14 Litem Office in order to provide judges,
15 magistrates, and guardians ad litem with access
16 to such information; requiring that the
17 department report its progress on providing
18 such access to the Governor and Legislature;
19 providing for future expiration; amending s.
20 253.03, F.S.; requiring the Department of
21 Environmental Protection to lease the South
22 Florida Evaluation and Treatment Center to
23 Miami-Dade County for a specified term;
24 requiring Miami-Dade County to sublease the
25 facility to the existing lessee until the new
26 South Florida Evaluation and Treatment Center
27 is completed; authorizing the Department of
28 Corrections and the Department of Juvenile
29 Justice to make certain expenditures to defray
30 costs incurred by a municipality or county as a
31 result of opening or operating a facility under



1 authority of the respective department;
2 amending s. 216.262, F.S.; providing for
3 additional positions to operate additional
4 prison bed capacity under certain
5 circumstances; amending s. 216.292, F.S.;
6 authorizing certain transfers of appropriations
7 for operations from general revenue between
8 budget categories and entities of the criminal
9 conflict and civil regional counsels and the
10 budget category for child dependency and civil
11 conflict cases within the Justice
12 Administrative Commission; providing for future
13 expiration of such provisions; authorizing the
14 Department of Legal Affairs to expend
15 appropriated funds on programs funded in the
16 preceding fiscal year; amending s. 932.7055,
17 F.S.; providing for the expenditure of funds in
18 a special law enforcement trust fund
19 established by the governing body of a
20 municipality; amending s. 985.686, F.S.;
21 providing that the responsibility of counties
22 to pay the costs of juvenile detention exclude
23 certain medical and mental health care costs;
24 authorizing the Executive Office of the
25 Governor to transfer funds between departments
26 for purposes of aligning amounts paid for risk
27 management premiums and for purposes of
28 aligning amounts paid for human resource
29 management services; reenacting s. 287.17(3)(a)
30 and (6), F.S.; authorizing the use of state
31 aircraft for commuting; providing for the



1 future expiration of certain amendments to such
2 provisions; amending s. 255.249, F.S.;
3 requiring the Department of Management Services
4 to annually publish and furnish to the Governor
5 and the Legislature a master leasing report;
6 deleting provisions requiring the department to
7 submit a report of leases that are due to
8 expire and amendments and supplements to and
9 waivers of the terms and conditions of lease
10 agreements; requiring state agencies to provide
11 information concerning space needs to the
12 Department of Management Services; delaying the
13 expiration of provisions requiring that
14 specified clauses, which may not be amended,
15 supplemented, or waived, be included in the
16 terms and conditions of a lease; authorizing
17 the Department of Management Services to
18 contract for services in carrying out the
19 strategic leasing plan; providing for future
20 expiration of such provisions; amending s.
21 255.25, F.S.; authorizing state agencies to use
22 the services of a tenant broker; authorizing
23 the department to procure a term contract for
24 real estate consulting and brokerage services;
25 providing requirements for such contract;
26 providing for future expiration of such
27 provisions; requiring an annual report to the
28 Legislature and the Governor; amending s.
29 255.503, F.S.; requiring that the department
30 provide an analysis to the Legislature, the
31 Governor, and the Division of Bond Finance of



1 the State Board of Administration relating to
2 the disposition of a facility within the
3 Florida Facilities Pool; directing the
4 Department of Environmental Protection to make
5 specified awards of grant moneys for
6 pollution-control purposes; amending s.
7 320.08058, F.S.; revising requirements for
8 distributing the proceeds from the annual use
9 fee for the Florida panther license plate;
10 providing for future expiration of such
11 revision; amending s. 581.031, F.S.;
12 authorizing the Department of Agriculture and
13 Consumer Services to conduct research projects
14 concerning citrus disease; providing for future
15 expiration of such authorization; amending s.
16 110.1245, F.S.; authorizing state agencies to
17 make cash awards to state employees
18 demonstrating satisfactory service to the
19 agency or the state; providing limits on such
20 awards; requiring a report with respect
21 thereto; amending s. 110.123, F.S.; providing
22 for the state's monthly contribution for
23 employees under the state group insurance
24 program; amending s. 570.20, F.S.; authorizing
25 moneys in the General Inspection Trust Fund to
26 be appropriated for certain programs operated
27 by the Department of Agriculture and Consumer
28 Services; amending s. 320.08058, F.S.;
29 authorizing proceeds from the Professional
30 Sports Development Trust Fund to be used for
31 operational expenses of the Florida Sports



1 Foundation and financial support of the
2 Sunshine State Games; amending s. 339.08, F.S.;
3 providing for administrative expenses from the
4 State Transportation Trust Fund; amending s.
5 216.292, F.S.; authorizing the Governor to
6 recommend fixed capital outlay projects funded
7 by Federal Emergency Management Agency grants;
8 providing for review by the Legislative Budget
9 Commission; amending s. 339.135, F.S.;
10 requiring the Department of Transportation to
11 transfer funds to the Office of Tourism, Trade,
12 and Economic Development for the purpose of
13 funding economic development transportation
14 projects; requiring the Department of
15 Transportation to provide funds for additional
16 specified projects; creating the Seaport
17 Strategic Planning and Financing Task Force;
18 providing for the purpose, duties, and
19 membership of the task force; requiring the
20 Office of Program Policy Analysis and
21 Government Accountability to staff the task
22 force and provide funding assistance; requiring
23 the Department of Transportation to provide
24 assistance to the task force; requiring the
25 task force to report its findings and
26 recommendations to the Governor and the
27 Legislature; amending s. 253.034, F.S.;
28 authorizing the deposit of funds from the sale
29 of property located in Palm Beach County into
30 the Highway Safety Operating Trust Fund by the
31 Department of Highway Safety and Motor



1 Vehicles; amending s. 311.22, F.S.; prescribing
2 the required matching funds for dredging
3 projects that meet specified conditions;
4 extending the period for a local government to
5 apply to the Executive Office of the Governor
6 for a waiver of certain requirements governing
7 matching funding for public assistance
8 projects; amending s. 509.302, F.S.;
9 authorizing certain administrative fines to be
10 used to support the Hospitality Education
11 Program and school-to-career transition
12 programs; providing for future expiration of
13 such provisions; amending s. 1013.64, F.S.;
14 providing for funds for comprehensive
15 educational plant needs to be specifically
16 appropriated for distribution; providing for
17 future expiration of such provisions; amending
18 s. 373.459, F.S.; deleting provisions providing
19 for the expenditure of moneys in the Ecosystem
20 Management and Restoration Trust Fund and the
21 Water Protection and Sustainability Trust Fund;
22 providing for future expiration of provisions
23 exempting certain water management districts
24 and local governments from a requirement to
25 provide matching funds; amending s. 253.01,
26 F.S.; authorizing moneys in the Internal
27 Improvement Trust Fund to be used for grants
28 and aids to local governments for water
29 projects; providing for future expiration;
30 amending s. 403.890, F.S.; providing for moneys
31 in the Water Protection and Sustainability



1 Program Trust fund to be used for grants and
2 aids to local governments for water projects;
3 providing for future expiration; amending s.
4 201.15, F.S.; providing for moneys in the
5 Invasive Plant Control Trust Fund to be used
6 for water projects; providing for future
7 expiration of such provisions; authorizing the
8 transfer of moneys in the Invasive Plant
9 Control Trust Fund to the Ecosystem Management
10 and Restoration Trust Fund for grants and aids
11 to local governments for water projects;
12 requiring the Florida Housing Finance
13 Corporation to establish a Teachers' Down
14 Payment Assistance Pilot Program; providing
15 requirements for the program and conditions for
16 a teacher to receive a specified amount as
17 assistance for a down payment on homestead
18 property; amending s. 322.025, F.S.;
19 authorizing the Department of Highway Safety
20 and Motor Vehicles to distribute safety
21 awareness materials that do not include
22 advertisements; providing that such materials
23 include Official Florida Driver Handbooks;
24 requiring that other governmental entities,
25 including public schools, use the books
26 provided by the department; providing for
27 future expiration; creating s. 570.957, F.S.;
28 establishing the Farm-to-Fuel Grants Program
29 within the Department of Agriculture and
30 Consumer Services; providing definitions;
31 specifying the use of renewable energy grants



1 for projects relating to bioenergy; providing
2 eligibility requirements; authorizing the
3 department to adopt rules; providing criteria
4 for grant award consideration; requiring the
5 department to consult with the Department of
6 Environmental Protection, the Office of
7 Tourism, Trade, and Economic Development, and
8 certain experts when evaluating applications;
9 directing the Florida Building Commission to
10 convene a workgroup to develop a model
11 residential energy efficiency ordinance;
12 requiring the commission to consult with
13 specified entities to review the
14 cost-effectiveness of energy efficiency
15 measures in the construction of residential,
16 commercial, and government buildings; requiring
17 the commission to consult with specified
18 entities to develop and implement a public
19 awareness campaign; requiring the Department of
20 Environmental Protection to develop a public
21 awareness campaign to promote the effective use
22 of energy in the state and discourage all forms
23 of energy waste; requiring reports to the
24 Legislature; providing for the construction and
25 operation of a research and demonstration
26 cellulosic ethanol plant; providing
27 requirements and procedures therefor; amending
28 s. 377.804, F.S.; deleting certain requirements
29 for the review and approval of grants relating
30 to bioenergy projects for renewable energy
31 technology; providing for the future expiration



1 of such provisions; authorizing the Department
2 of Financial Services to expend certain funds
3 for salaries and related expenses; providing
4 for the effect of a veto of one or more
5 specific appropriations or proviso to which
6 implementing language refers; providing for the
7 continued operation of certain provisions
8 notwithstanding a future repeal or expiration
9 provided by the act; providing for
10 severability; providing effective dates.
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The Conference Committee Amendment for CS/CS/SB 450 relating to the Florida Teachers Lead Program Stipend provides that prekindergarten, charter school, and job-share classroom teachers who teach pre-kindergarten through grade 12 students who are funded through the FEFP, shall be eligible to receive a Florida Teachers Lead Program Stipend.

Bill No. CS for CS for SB 450



650516

CHAMBER ACTION

Senate

House

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The Conference Committee on CS for CS for SB 450 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 1012.71, Florida Statutes, is amended to read:

1012.71 The Florida Teachers Lead Program Stipend.--

(1) Funding for the Florida Teachers Lead Program Stipend shall be as determined by the Legislature in the General Appropriations Act. Funds appropriated for the Florida Teachers Lead Program Stipend are provided to purchase classroom materials and supplies used in the instruction of students in prekindergarten kindergarten through grade 12 of the public school system who are funded from the Florida Education Finance Program, including public charter schools. From the funds appropriated, the Commissioner of Education shall calculate an amount for each school district by prorating the total of each school district's share of the



1 total K-12 unweighted FTE student enrollment.

2 (2) From the funds allocated to each district, the
3 district school board shall calculate an identical amount for
4 each classroom teacher which is his or her proportionate share
5 of the amount allocated to the district for the total number
6 of teachers in the district, including teachers in public
7 charter schools. A job-share classroom teacher may receive a
8 prorated share of the amount provided to a full-time classroom
9 teacher. The district school board and each charter school
10 board shall provide the funds no later than September 30 of
11 each year directly to each teacher as a stipend to purchase,
12 on behalf of the school district or charter school, classroom
13 materials and supplies to be used in the instruction of
14 students assigned to the teacher. Each teacher shall have sole
15 discretion regarding which classroom materials and supplies
16 best meet the needs of the students, when they are needed, and
17 where they are acquired. The funds expended by individual
18 teachers shall not be subject to state or local competitive
19 bidding requirements. Disbursement of Florida Teachers Lead
20 Program Stipend funds directly to each teacher and to each
21 charter school shall complete the school district's
22 expenditure of these funds.

23 (3) Each teacher shall sign a statement acknowledging
24 receipt of the funds, agreeing to keep receipts to show the
25 expenditure of the funds used to purchase classroom materials
26 and supplies for use in the instruction of the students
27 assigned to them, and agreeing to return any unused funds by
28 the end of the regular school year. The statement to be signed
29 and dated by each teacher for receipt of the Florida Teachers
30 Lead Program Stipend shall include the wording: "I, ... (Name
31 of teacher)...., am employed by the County District School



1 Board or by the (Charter School) as a full-time
2 classroom teacher. I acknowledge that Florida Teachers Lead
3 Program Stipend funds are appropriated by the Legislature for
4 the sole purpose of purchasing classroom materials and
5 supplies to be used in the instruction of students assigned to
6 me. In accepting custody of these funds, I agree to keep
7 receipts for all expenditures. I understand that if I do not
8 keep receipts showing these funds were spent to purchase
9 classroom materials and supplies for use with my students, it
10 will be my personal responsibility to pay any federal taxes
11 due on these funds. I also agree to return any unused funds to
12 the district school board at the end of the regular school
13 year for deposit into the School Advisory Council account of
14 the school at which I was employed at the time of the receipt
15 of the funds or for deposit into the district's teacher lead
16 program account of the district in which the charter school is
17 sponsored, as applicable."

18 (4) Florida Teachers Lead Program Stipend funds shall
19 be provided to each teacher in addition to any other funds
20 appropriated for public school operations.

21 (5) Any unused funds that ~~which~~ are returned to the
22 district school board shall be deposited into the School
23 Advisory Council account of the school at which the teacher
24 returning the funds was employed at the time of the receipt of
25 the funds or for deposit into the district's teacher lead
26 program account of the district in which the charter school is
27 sponsored, as applicable.

28 (6) For purposes of this section, the term "classroom
29 teacher" includes certified teachers employed by a public
30 school district or a public charter school on or before
31 September 1 of each year whose full-time or job-share job



1 responsibility is the classroom instruction of students in
2 prekindergarten kindergarten through grade 12, including and
3 full-time media specialists and guidance counselors who serve
4 students in prekindergarten kindergarten through grade 12 who
5 are funded through the Florida Education Finance Program. A
6 job-share classroom teacher is defined as two teachers whose
7 combined full-time equivalent employment for the same teaching
8 assignment equals one full-time classroom teacher. Only school
9 district and public charter school personnel employed in these
10 positions are eligible for the classroom materials and supply
11 stipend from funds appropriated to implement the provisions of
12 this section.

13 Section 2. This act shall take effect July 1, 2007.

14
15
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete everything before the enacting clause

19
20 and insert:

21 A bill to be entitled

22 An act relating to the Florida Teachers Lead
23 Program Stipend; amending s. 1012.71, F.S.;
24 extending the stipend to teachers of
25 prekindergarten students in public schools and
26 public charter schools who are funded through
27 the Florida Education Finance Program;
28 providing an effective date.

The Conference Committee Amendment for CS/SB 1046 relating to Education:

- Amends s. 551.106 (2) -- Provides that slot machine revenues transferred to the Educational Enhancement Trust Fund may be used for recurring appropriations.
- Amends s. 1003.03 (5)-- Defines team teaching, co-teaching, and inclusion teaching.
- Amends FEFP provisions in s. 1011.62 for the following:
 - ESE Guaranteed Allocation -- Provides that a school district's expenditure of funds from the ESE guaranteed allocation for gifted students in grades 9 through 12 may not be greater than the amount the district spent for gifted students in grades 9 through 12 during the 2006-2007 fiscal year. This spending limitation does not apply for exceptional students and gifted students in grades K through 8. Amends s. 1011.62 (1) (e).
 - DJJ Supplemental Allocation -- Provides the methodology for calculating the supplemental allocation for students in juvenile justice education programs. Amends s. 1011.62 (1) (p).
 - Sparsity Supplement -- Provides that the sparsity supplement shall be a minimum of \$100 per FTE or the minimum amount per FTE designated in the General Appropriations Act. Amends 1011.62 (7).
 - Deletes obsolete provisions in ss. 1011.62 (6) (b), relating to programs that are no longer funded as a categorical, and 1011.71 (5) (b), relating to a school district expenditure requirement that has expired.
- Requires the Office of Program and Policy Analysis and Government Accountability to conduct a survey of school districts to obtain information about the educational programs and services provided to students in kindergarten through grade 12 who are identified as gifted and to submit a report by December 1, 2007.

Bill No. CS for SB 1046, 1st Eng.



061800

CHAMBER ACTION

Senate

House

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The Conference Committee on CS for SB 1046, 1st Eng.
recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (c) of subsection (2) of section
551.106, Florida Statutes, is amended to read:

551.106 License fee; tax rate; penalties.--

(2) TAX ON SLOT MACHINE REVENUES.--

(c)1. Funds transferred to the Educational Enhancement
Trust Fund under paragraph (b) shall be used to supplement
public education funding statewide ~~and-shall-not-be-used-for~~
~~recurring-appropriations.~~

2. If necessary to comply with any covenant
established pursuant to s. 1013.68(4), s. 1013.70(1), or s.
1013.737(3), funds transferred to the Educational Enhancement
Trust Fund under paragraph (b) shall first be available to pay
debt service on lottery bonds issued to fund school
construction in the event lottery revenues are insufficient



1 for such purpose or to satisfy debt service reserve
2 requirements established in connection with lottery bonds.
3 Moneys available pursuant to this subparagraph are subject to
4 annual appropriation by the Legislature.

5 Section 2. Subsection (5) of section 1003.03, Florida
6 Statutes, is amended to read:

7 1003.03 Maximum class size.--

8 (5) TEAM-TEACHING STRATEGIES.--

9 (a) School districts may use teaching strategies that
10 include the assignment of more than one teacher to a classroom
11 of students and that were implemented before July 1, 2005.
12 Effective July 1, 2005, school districts may implement
13 additional teaching strategies that include the assignment of
14 more than one teacher to a classroom of students for the
15 following purposes only:

16 1. Pairing teachers for the purpose of staff
17 development.

18 2. Pairing new teachers with veteran teachers.

19 3. Reducing turnover among new teachers.

20 4. Pairing teachers who are teaching out-of-field with
21 teachers who are in-field.

22 5. Providing for more flexibility and innovation in
23 the classroom.

24 6. Improving learning opportunities for students,
25 including students who have disabilities.

26 (b) Teaching strategies, including team teaching,
27 co-teaching, or inclusion teaching, implemented on or after
28 July 1, 2005, pursuant to paragraph (a) may be implemented
29 subject to the following restrictions:

30 1. Reasonable limits shall be placed on the number of
31 students in a classroom so that classrooms are not



1 overcrowded. Teacher-to-student ratios within a curriculum
2 area or grade level must not exceed constitutional limits.

3 2. At least one member of the team must have at least
4 3 years of teaching experience.

5 3. At least one member of the team must be teaching
6 in-field.

7 4. The teachers must be trained in team-teaching
8 methods within 1 year after assignment.

9 (c) As used in this subsection, the term:

10 1. "Team teaching" or "co-teaching" means two or more
11 teachers are assigned to a group of students and each teacher
12 is responsible for all of the students during the entire class
13 period. In order to be considered team teaching or
14 co-teaching, each teacher is responsible for planning,
15 delivering, and evaluating instruction for all students in the
16 class or subject for the entire class period.

17 2. "Inclusion teaching" means two or more teachers are
18 assigned to a group of students, but one of the teachers is
19 responsible for only one student or a small group of students
20 in the classroom.

21
22 The use of strategies implemented as outlined in this
23 subsection meets the letter and intent of the Florida
24 Constitution and the Florida Statutes which relate to
25 implementing class-size reduction, and this subsection applies
26 retroactively. A school district may not be penalized
27 financially or otherwise as a result of the use of any legal
28 strategy, including, but not limited to, those set forth in
29 subsection (3) and this subsection.

30 Section 3. Paragraph (e) of subsection (1) of section
31 1011.62, Florida Statutes, is amended, present paragraphs (p),



1 (q), (r), (s), and (t) of that subsection are redesignated as
2 paragraphs (q), (r), (s), (t), and (u), respectively, a new
3 paragraph (p) is added to that subsection, and paragraph (b)
4 of subsection (6) and subsection (7) of that section are
5 amended, to read:

6 1011.62 Funds for operation of schools.--If the annual
7 allocation from the Florida Education Finance Program to each
8 district for operation of schools is not determined in the
9 annual appropriations act or the substantive bill implementing
10 the annual appropriations act, it shall be determined as
11 follows:

12 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
13 OPERATION.--The following procedure shall be followed in
14 determining the annual allocation to each district for
15 operation:

16 (e) Funding model for exceptional student education
17 programs.--

18 1.a. The funding model uses basic, at-risk, support
19 levels IV and V for exceptional students and career Florida
20 Education Finance Program cost factors, and a guaranteed
21 allocation for exceptional student education programs.
22 Exceptional education cost factors are determined by using a
23 matrix of services to document the services that each
24 exceptional student will receive. The nature and intensity of
25 the services indicated on the matrix shall be consistent with
26 the services described in each exceptional student's
27 individual educational plan.

28 b. In order to generate funds using one of the two
29 weighted cost factors, a matrix of services must be completed
30 at the time of the student's initial placement into an
31 exceptional student education program and at least once every



1 3 years by personnel who have received approved training.
2 Nothing listed in the matrix shall be construed as limiting
3 the services a school district must provide in order to ensure
4 that exceptional students are provided a free, appropriate
5 public education.

6 c. Students identified as exceptional, in accordance
7 with chapter 6A-6, Florida Administrative Code, who do not
8 have a matrix of services as specified in sub-subparagraph b.
9 shall generate funds on the basis of full-time-equivalent
10 student membership in the Florida Education Finance Program at
11 the same funding level per student as provided for basic
12 students. Additional funds for these exceptional students
13 will be provided through the guaranteed allocation designated
14 in subparagraph 2.

15 2. For students identified as exceptional who do not
16 have a matrix of services and students who are gifted in
17 grades K through 8, there is created a guaranteed allocation
18 to provide these students with a free appropriate public
19 education, in accordance with s. 1001.42(4)(m) and rules of
20 the State Board of Education, which shall be allocated
21 annually to each school district in the amount provided in the
22 General Appropriations Act. These funds shall be in addition
23 to the funds appropriated on the basis of FTE student
24 membership in the Florida Education Finance Program, and the
25 amount allocated for each school district shall not be
26 recalculated during the year. These funds shall be used to
27 provide special education and related services for exceptional
28 students and students who are gifted in grades K through 8.
29 Beginning with the 2007-2008 fiscal year, a district's
30 expenditure of funds from the guaranteed allocation for
31 students in grades 9 through 12 who are gifted may not be



1 greater than the amount expended during the 2006-2007 fiscal
2 year for gifted students in grades 9 through 12.

3 (p) Calculation of supplemental allocation for
4 juvenile justice education programs.--Beginning with the
5 2007-2008 General Appropriations Act, the total K-12 weighted
6 full-time equivalent student membership in juvenile justice
7 education programs in each school district shall be multiplied
8 by the amount of the state average class-size-reduction factor
9 multiplied by the district's cost differential. An amount
10 equal to the sum of this calculation shall be allocated in the
11 FEFP to each school district to supplement other sources of
12 funding for students in juvenile justice education programs.

13 (6) CATEGORICAL FUNDS.--

14 (b) If a district school board finds and declares in a
15 resolution adopted at a regular meeting of the school board
16 that the funds received for any of the following categorical
17 appropriations are urgently needed to maintain school board
18 specified academic classroom instruction, the school board may
19 consider and approve an amendment to the school district
20 operating budget transferring the identified amount of the
21 categorical funds to the appropriate account for expenditure:

22 1. Funds for student transportation.

23 ~~2.--Funds-for-in-service-educational-personnel~~
24 ~~training-~~

25 ~~2.3-~~ Funds for safe schools.

26 ~~4.--Funds-for-public-school-technology-~~

27 ~~3.5-~~ Funds for supplemental academic instruction.

28 (7) DETERMINATION OF SPARSITY SUPPLEMENT.--

29 (a) Annually, in an amount to be determined by the
30 Legislature through the General Appropriations Act, there
31 shall be added to the basic amount for current operation of



1 the FEFP qualified districts a sparsity supplement which shall
2 be computed as follows:

$$\begin{array}{rcl} & \frac{1101.8918}{2700 + \text{district}} & - 0.1101 \\ \text{Sparsity Factor} = & \text{sparsity} & \\ & \text{index} & \end{array}$$

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9 except that districts with a sparsity index of 1,000 or less
10 shall be computed as having a sparsity index of 1,000, and
11 districts having a sparsity index of 7,308 and above shall be
12 computed as having a sparsity factor of zero. A qualified
13 district's full-time equivalent student membership shall equal
14 or be less than that prescribed annually by the Legislature in
15 the appropriations act. The amount prescribed annually by the
16 Legislature shall be no less than 17,000, but no more than
17 24,000.

18 (b) The district sparsity index shall be computed by
19 dividing the total number of full-time equivalent students in
20 all programs in the district by the number of senior high
21 school centers in the district, not in excess of three, which
22 centers are approved as permanent centers by a survey made by
23 the Department of Education.

24 (c) If the sparsity supplement calculated in paragraph
25 (a) and paragraph (b) for an eligible district is less than
26 \$100 per full-time equivalent student, the district's
27 supplement shall be increased to \$100 per FTE or to the
28 minimum amount per FTE designated in the General
29 Appropriations Act.

30 (d)(e) Each district's allocation of sparsity
31 supplement funds shall be adjusted in the following manner:



1 1. A maximum discretionary levy per FTE value for each
2 district shall be calculated by dividing the value of each
3 district's maximum discretionary levy by its FTE student
4 count.

5 2. A state average discretionary levy value per FTE
6 shall be calculated by dividing the total maximum
7 discretionary levy value for all districts by the state total
8 FTE student count.

9 3. A total potential funds per FTE for each district
10 shall be calculated by dividing the total potential funds, not
11 including Florida School Recognition Program funds and the
12 minimum guarantee, for each district by its FTE student count.

13 4. A state average total potential funds per FTE shall
14 be calculated by dividing the total potential funds, not
15 including Florida School Recognition Program funds and the
16 minimum guarantee, for all districts by the state total FTE
17 student count.

18 5. For districts that have a levy value per FTE as
19 calculated in subparagraph 1. higher than the state average
20 calculated in subparagraph 2., a sparsity wealth adjustment
21 shall be calculated as the product of the difference between
22 the state average levy value per FTE calculated in
23 subparagraph 2. and the district's levy value per FTE
24 calculated in subparagraph 1. and the district's FTE student
25 count and -1. However, no district shall have a sparsity
26 wealth adjustment that, when applied to the total potential
27 funds calculated in subparagraph 3., would cause the
28 district's total potential funds per FTE to be less than the
29 state average calculated in subparagraph 4.

30 6. Each district's sparsity supplement allocation
31 shall be calculated by adding the amount calculated as



1 specified in paragraphs (a) and (b) and the wealth adjustment
2 amount calculated in this paragraph.

3 Section 4. Paragraph (b) of subsection (5) of section
4 1011.71, Florida Statutes, is repealed.

5 Section 5. Gifted student education.--

6 (1) By December 1, 2007, the Office of Program Policy
7 Analysis and Government Accountability shall submit a report
8 to the Governor, the President of the Senate, the Speaker of
9 the House of Representatives, and the Commissioner of
10 Education on gifted services and programming provided to
11 public school students in kindergarten through grade 12. The
12 report shall include findings based on the following:

13 (a) A survey of each school district to identify:

14 1. The methods used to identify gifted students and
15 the grade levels and number of schools using each method.

16 2. The number of gifted students identified under each
17 of the methods specified under subparagraph 1. during the
18 2005-2006 and 2006-2007 school years.

19 3. Whether the district implements a plan under rule
20 6A-6.03019(2)(b), Florida Administrative Code, to increase the
21 participation of students from underrepresented groups in
22 gifted programming and the number of students by grade level
23 who were identified as gifted under such a plan in the
24 2005-2006 and 2006-2007 school years.

25 4. The types of services and programming provided to
26 gifted students according to grade level, the number of
27 schools in which the services and programming are offered, and
28 the number of students by grade level who received the
29 services and programming during the 2005-2006 and 2006-2007
30 school years. Services and programming identified for high
31 school students shall be limited to courses coded with state

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1 course code numbers identifying the courses as honors or
2 gifted.

3 5. The amount of the exceptional student education
4 guaranteed allocation expended by the district during the
5 2005-2006 and 2006-2007 school years for gifted services and
6 programming according to each grade level and school within
7 the district.

8 (b) An assessment of the advantages and disadvantages
9 of current Florida law that classifies gifted students as
10 exceptional students.

11 (c) A review of the practices of other states for
12 identifying gifted students and for providing and funding
13 gifted services and programming.

14 (2) The report shall include, but need not be limited
15 to, a summary, discussion, and evaluation of the findings
16 under subsection (1); recommendations for the improvement of
17 gifted identification practices and services and programming
18 provided to students in kindergarten through grade 12 who are
19 gifted or otherwise academically talented; and proposed
20 statutory changes to implement the report's recommendations.

21 Section 6. This act shall take effect July 1, 2007.

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24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27
28 and insert:

29 A bill to be entitled

30 An act relating to education; amending s.

31 551.106, F.S.; providing that certain funds



1 transferred to the Educational Enhancement
2 Trust Fund may be used for recurring
3 appropriations; amending s. 1003.03, F.S.;
4 defining the terms "team teaching,"
5 "co-teaching," and "inclusion teaching" for
6 purposes of provisions authorizing the use of
7 various teaching strategies in order to
8 implement requirements for class-size
9 reduction; amending s. 1011.62, F.S.; revising
10 the funding model for exceptional student
11 education programs to provide additional funds
12 for students who are gifted in graded K through
13 8; providing a formula for calculating a
14 supplemental allocation for juvenile justice
15 education programs; deleting certain
16 categorical appropriations that a district
17 school board may, pursuant to resolution,
18 transfer and use for academic classroom
19 instruction; providing for an increase in a
20 district's sparsity supplement under certain
21 conditions; repealing s. 1011.71(5)(b), F.S.,
22 relating to obsolete provisions limiting
23 certain uses of proceeds from the district
24 school tax; requiring the Office of Program
25 Policy Analysis and Government Accountability
26 to submit a report relating to gifted student
27 education to the Governor, the Legislature, and
28 the Commissioner of Education; providing report
29 requirements; providing an effective date.
30
31

The Conference Committee Amendment for CS/SB 1060 relating to educational facilities:

- Amends ss.201.15 (d) 3., 1013.64 (7), 1013.65 (2) (a) 4., and 1013.738 to delete provisions related to the transfer of recurring funds to the Public Education Capital Outlay and Debt Service Trust Fund to be used for the Classrooms for Kids Program and the High Growth County District Capital Outlay Assistance Grant Program. These programs will be funded through nonrecurring appropriations instead of these recurring transfers.
- Amends s. 203.01 (1) (c), to speed up receipts of gross receipts utility tax revenues by advancing the date from the last day of the month to the 20th day of each month. This will provide a one time increase in funds available to be appropriated for public education capital outlay.
- Amends s. 1013.64 (1) (a) and (3) (a), to provide that in calculating funds for public education capital outlay purposes modular noncombustible facilities shall have a 35-year life and that capital outlay FTE shall be for K-12 students for whom the school district provides the educational facility.



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CHAMBER ACTION

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The Conference Committee on CS for SB 1060 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (d) of subsection (1) of section 201.15, Florida Statutes, as amended by chapters 2005-92, 2006-1, 2006-185, and 2006-231, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.--All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:



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1 (d) The remainder of the moneys distributed under this
2 subsection, after the required payments under paragraphs (a),
3 (b), and (c), shall be paid into the State Treasury to the
4 credit of:

5 1. The State Transportation Trust Fund in the
6 Department of Transportation in the amount of \$541.75 million
7 in each fiscal year, to be paid in quarterly installments and
8 used for the following specified purposes, notwithstanding any
9 other law to the contrary:

10 a. For the purposes of capital funding for the New
11 Starts Transit Program, authorized by Title 49, U.S.C. s. 5309
12 and specified in s. 341.051, 10 percent of these funds;

13 b. For the purposes of the Small County Outreach
14 Program specified in s. 339.2818, 5 percent of these funds;

15 c. For the purposes of the Strategic Intermodal System
16 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75
17 percent of these funds after allocating for the New Starts
18 Transit Program described in sub-subparagraph a. and the Small
19 County Outreach Program described in sub-subparagraph b.; and

20 d. For the purposes of the Transportation Regional
21 Incentive Program specified in s. 339.2819, 25 percent of
22 these funds after allocating for the New Starts Transit
23 Program described in sub-subparagraph a. and the Small County
24 Outreach Program described in sub-subparagraph b.

25 2. The Water Protection and Sustainability Program
26 Trust Fund in the Department of Environmental Protection in
27 the amount of \$100 million in each fiscal year, to be paid in
28 quarterly installments and used as required by s. 403.890.

29 ~~3. The Public Education Capital Outlay and Debt~~
30 ~~Service Trust Fund in the Department of Education in the~~
31 ~~amount of \$105 million in each fiscal year, to be paid in~~



~~monthly-installments-with-\$75-million-used-to-fund-the
Classrooms-for-Kids-Program-created-in-s.-1013.735,-and-\$30
million-to-be-used-to-fund-the-High-Growth-County-District
Capital-Outlay-Assistance-Grant-Program-created-in-s.-
1013.738.-If-required,-new-facilities-constructed-under-the
Classrooms-for-Kids-Program-must-meet-the-requirements-of-s.-
1013.372-~~

3.4- The Grants and Donations Trust Fund in the
Department of Community Affairs in the amount of \$3.25 million
in each fiscal year to be paid in monthly installments, with
\$3 million to be used to fund technical assistance to local
governments and school boards on the requirements and
implementation of this act and \$250,000 to be used to fund the
Century Commission established in s. 163.3247.

Moneys distributed pursuant to this paragraph may not be
pledged for debt service unless such pledge is approved by
referendum of the voters.

Section 2. Paragraph (c) of subsection (1) of section
203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility and
communications services.--

(1)

(c)1. The tax shall be levied against the total amount
of gross receipts received by a distribution company for its
sale of utility services if the utility service is delivered
to the retail consumer by a distribution company and the
retail consumer pays the distribution company a charge for
utility service which includes a charge for both the
electricity and the transportation of electricity to the
retail consumer. The distribution company shall report and



1 remit to the Department of Revenue by the 20th last day of
2 each month the taxes levied pursuant to this paragraph during
3 the preceding month.

4 2. To the extent practicable, the Department of
5 Revenue must distribute all receipts of taxes remitted under
6 this chapter to the Public Education Capital Outlay and Debt
7 Service Trust Fund in the same month as the department
8 collects such taxes.

9 Section 3. Paragraph (a) of subsection (1), paragraph
10 (a) of subsection (3), and subsection (7) of section 1013.64,
11 Florida Statutes, are amended to read:

12 1013.64 Funds for comprehensive educational plant
13 needs; construction cost maximums for school district capital
14 projects.--Allocations from the Public Education Capital
15 Outlay and Debt Service Trust Fund to the various boards for
16 capital outlay projects shall be determined as follows:

17 (1)(a) Funds for remodeling, renovation, maintenance,
18 repairs, and site improvement for existing satisfactory
19 facilities shall be given priority consideration by the
20 Legislature for appropriations allocated to the boards from
21 the total amount of the Public Education Capital Outlay and
22 Debt Service Trust Fund appropriated. These funds shall be
23 calculated pursuant to the following basic formula: the
24 building value times the building age over the sum of the
25 years' digits assuming a 50-year building life. For modular
26 noncombustible facilities, a 35-year life shall be used, and
27 for relocatable facilities, a 20-year life shall be used.
28 "Building value" is calculated by multiplying each building's
29 total assignable square feet times the appropriate
30 net-to-gross conversion rate found in state board rules and
31 that product times the current average new construction cost.



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1 "Building age" is calculated by multiplying the prior year's
2 building age times 1 minus the prior year's sum received from
3 this subsection divided by the prior year's building value. To
4 the net result shall be added the number 1. Each board shall
5 receive the percentage generated by the preceding formula of
6 the total amount appropriated for the purposes of this
7 section.

8 (3)(a) Each district school board shall receive an
9 amount from the Public Education Capital Outlay and Debt
10 Service Trust Fund to be calculated by computing the capital
11 outlay full-time equivalent membership as determined by the
12 department. Such membership must include, but is not limited
13 to:

14 1. K-12 students for whom the school district provides
15 the educational facility, except hospital and homebound
16 part-time students; and

17 2. Students who are career education students, and
18 adult disabled students and who are enrolled in school
19 district career centers. The capital outlay full-time
20 equivalent membership shall be determined for kindergarten
21 through the 12th grade and for career centers by averaging the
22 unweighted full-time equivalent student membership for the
23 second and third surveys and comparing the results on a
24 school-by-school basis with the Florida Inventory for School
25 Houses. The capital outlay full-time equivalent membership by
26 grade level organization shall be used in making the following
27 calculations: The capital outlay full-time equivalent
28 membership by grade level organization for the 4th prior year
29 must be used to compute the base-year allocation. The capital
30 outlay full-time equivalent membership by grade-level
31 organization for the prior year must be used to compute the



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1 growth over the highest of the 3 years preceding the prior
2 year. From the total amount appropriated by the Legislature
3 pursuant to this subsection, 40 percent shall be allocated
4 among the base capital outlay full-time equivalent membership
5 and 60 percent among the growth capital outlay full-time
6 equivalent membership. The allocation within each of these
7 groups shall be prorated to the districts based upon each
8 district's percentage of base and growth capital outlay
9 full-time membership. The most recent 4-year capital outlay
10 full-time equivalent membership data shall be used in each
11 subsequent year's calculation for the allocation of funds
12 pursuant to this subsection. If a change, correction, or
13 recomputation of data during any year results in a reduction
14 or increase of the calculated amount previously allocated to a
15 district, the allocation to that district shall be adjusted
16 correspondingly. If such recomputation results in an increase
17 or decrease of the calculated amount, such additional or
18 reduced amounts shall be added to or reduced from the
19 district's future appropriations. However, no change,
20 correction, or recomputation of data shall be made subsequent
21 to 2 years following the initial annual allocation.

22 ~~{7}--Moneys-distributed-to-the-Public-Education-Capital~~
23 ~~Outlay-and-Debt-Service-Trust-Fund-pursuant-to-s.-201-15-1}{d}~~
24 ~~to-fund-the-Classrooms-for-Kids-Program-created-in-s.-1013-735~~
25 ~~and-the-High-Growth-County-District-Capital-Outlay-Assistance~~
26 ~~Grant-Program-created-in-s.-1013-738-shall-be-distributed-as~~
27 ~~provided-by-these-sections-~~

28 Section 4. Paragraph (a) of subsection (2) of section
29 1013.65, Florida Statutes, is amended to read:

30 1013.65 Educational and ancillary plant construction
31 funds; Public Education Capital Outlay and Debt Service Trust



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1 Fund; allocation of funds.--

2 (2)(a) The Public Education Capital Outlay and Debt
3 Service Trust Fund shall be comprised of the following
4 sources, which are hereby appropriated to the trust fund:

5 1. Proceeds, premiums, and accrued interest from the
6 sale of public education bonds and that portion of the
7 revenues accruing from the gross receipts tax as provided by
8 s. 9(a)(2), Art. XII of the State Constitution, as amended,
9 interest on investments, and federal interest subsidies.

10 2. General revenue funds appropriated to the fund for
11 educational capital outlay purposes.

12 3. All capital outlay funds previously appropriated
13 and certified forward pursuant to s. 216.301.

14 ~~4-a.--Funds-paid-pursuant-to-s.-201-15(1)(d)-~~

15 ~~b.--The-sum-of-\$41.75-million-of-such-funds-shall-be~~
16 ~~appropriated-annually-for-expenditure-to-fund-the-Classrooms~~
17 ~~for-Kids-Program-created-in-s.-1013.735-and-shall-be~~
18 ~~distributed-as-provided-by-that-section-~~

19 Section 5. Subsection (4) of section 1013.738, Florida
20 Statutes, is amended to read:

21 1013.738 High Growth District Capital Outlay
22 Assistance Grant Program.--

23 ~~(4)--Moneys-distributed-to-the-Public-Education-Capital~~
24 ~~Outlay-and-Debt-Service-Trust-Fund-pursuant-to-s.-201-15(1)(d)~~
25 ~~for-the-High-Growth-District-Capital-Outlay-Assistance-Grant~~
26 ~~Program-created-in-this-section-shall-be-distributed-as~~
27 ~~provided-by-this-section-~~

28 Section 6. This act shall take effect July 1, 2007.

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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to educational facilities;
amending s. 201.15, F.S.; deleting provisions
relating to distribution of proceeds from the
excise tax on documents to the Public Education
Capital Outlay and Debt Service Trust Fund;
amending s. 203.01, F.S.; revising the date by
which a distribution company must remit taxes
on gross receipts from the sale of utility
services; prescribing an aspirational date for
remission of gross receipts taxes to such trust
fund; amending s. 1013.64, F.S.; prescribing
the life to be used for certain facilities in
calculating distributions from such trust fund;
clarifying those K-12 students on whose behalf
distributions will be made from such trust
fund; deleting provisions relating to
distributions from such trust fund for
specified programs; amending s. 1013.65, F.S.;
deleting reference to certain moneys paid into
such trust fund and to moneys set aside for
distribution to a specified program; amending
s. 1013.738, F.S.; deleting a provision
relating to distributions from such trust fund
for a specified program; providing an effective
date.

The Conference Committee Amendment for CS/SB 1064 relating to university and community college facility enhancement challenge grant programs:

- Amends ss. 1011.32 and 1013.79, the Alex B. Courtelis (state university) and the Community College facility enhancement challenge grant programs to streamline the administrative process and to update provisions to comply with the university decentralized budgeting system.

Bill No. CS for SB 1064



381926

CHAMBER ACTION

Senate

House

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The Conference Committee on CS for SB 1064 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsections (9) and (11) of section 1011.32, Florida Statutes, are amended to read:

1011.32 Community College Facility Enhancement Challenge Grant Program.--

(9) In order for a project to be eligible under this program, it must be survey recommended under the provisions of s. 1013.31 and included in the community college's 5-year capital improvement plan, and it must receive ~~prior~~ approval from the State Board of Education or the Legislature.

(11) Any private matching ~~preject~~ funds for a project ~~which~~ that are unexpended after the a project is completed shall revert to the community college's direct-support organization capital facilities matching account. ~~Fifty percent-of-such-unexpended-funds-shall-be-reserved-for-the~~



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1 community-college-which-originally-received-the-private
2 contribution-for-the-purpose-of-providing-private-matching
3 funds-for-future-facility-construction-projects-as-provided-in
4 this-section- The balance of any such unexpended state
5 matching funds shall be returned to the fund from which those
6 funds were appropriated General-Revenue-Fund.

7 Section 2. Section 1013.79, Florida Statutes, is
8 amended to read:

9 1013.79 University Facility Enhancement Challenge
10 Grant Program.--

11 (1) The Legislature recognizes that the universities
12 do not have sufficient physical facilities to meet the current
13 demands of their instructional and research programs. It
14 further recognizes that, to strengthen and enhance
15 universities, it is necessary to provide facilities in
16 addition to those currently available from existing revenue
17 sources. It further recognizes that there are sources of
18 private support that, if matched with state support, can
19 assist in constructing much-needed facilities and strengthen
20 the commitment of citizens and organizations in promoting
21 excellence throughout the state universities. Therefore, it is
22 the intent of the Legislature to establish a trust fund to
23 provide the opportunity for each university to receive support
24 for challenge grants for instructional and research-related
25 capital facilities within the university.

26 (2) There is hereby established the Alec P. Courtelis
27 University Facility Enhancement Challenge Grant Program for
28 the purpose of assisting universities build high priority
29 instructional and research-related capital facilities,
30 including common areas connecting such facilities. The
31 associated foundations that serve the universities shall



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1 solicit gifts from private sources to provide matching funds
2 for capital facilities. For the purposes of this act, private
3 sources of funds shall not include any federal, state, or
4 local government funds that a university may receive.

5 (3)(a) There is established the Alec P. Courtelis
6 Capital Facilities Matching Trust Fund to facilitate ~~for the~~
7 ~~purpose of providing matching funds from private contributions~~
8 ~~for~~ the development of high priority instructional and
9 research-related capital facilities, including common areas
10 connecting such facilities, within a university. All
11 appropriated funds deposited into the trust fund shall be
12 invested pursuant to s. 17.61. Interest income accruing to
13 that portion of the trust fund shall increase the total funds
14 available for the challenge grant program.

15 (b) Effective July 1, 2009, the Alec P. Courtelis
16 Capital Facilities Matching Trust Fund is terminated.

17 (c) The State Board of Education shall pay any
18 outstanding debts and obligations of the terminated fund as
19 soon as practicable, and the Chief Financial Officer shall
20 close out and remove the terminated funds from various state
21 accounting systems using generally accepted accounting
22 principles concerning warrants outstanding, assets, and
23 liabilities.

24 (d) By June 30, 2008, all private funds and associated
25 interest earnings held in the Alec P. Courtelis Capital
26 Facilities Matching Trust Fund shall be transferred to the
27 originating university's individual program account.

28 (4) Each university shall establish, pursuant to s.
29 1011.42, a facilities matching grant program account as a
30 depository for private contributions provided under this
31 section. Once a project is under contract, funds appropriated



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1 as state matching funds may be transferred to the university's
2 account once the Board of Governors certifies receipt of the
3 private matching funds pursuant to subsection (5). State funds
4 that are not needed as matching funds for the project for
5 which appropriated shall be transferred, together with any
6 accrued interest, back to the state fund from which such funds
7 were appropriated. The transfer of unneeded state funds shall
8 occur within 30 days after final completion of the project or
9 within 30 days after a determination that the project will not
10 be completed. The-Legislature-may-appropriate-funds-to-be
11 transferred-to-the-trust-fund- The Public Education Capital
12 Outlay and Debt Service Trust Fund or the, Capital Improvement
13 Trust Fund,-Division-of-Sponsored-Research-Trust-Fund,-and
14 Contracts-and-Grants-Trust-Fund shall not be used as the
15 source of the state match for private contributions. All
16 appropriated-funds-deposited-into-the-trust-fund-shall-be
17 invested-pursuant-to-the-provisions-of-s.-17-61--Interest
18 income-accruing-to-that-portion-of-the-trust-fund-shall
19 increase-the-total-funds-available-for-the-challenge-grant
20 program- Interest income accruing from the private donations
21 shall be returned to the participating foundation upon
22 completion of the project. The-State-Board-of-Education-shall
23 administer-the-trust-fund-and-all-related-construction
24 activities-

25 (5)(4) A No project may not shall be initiated unless
26 all private funds for planning, construction, and equipping
27 the facility have been received and deposited in the separate
28 university program account designated for this purpose trust
29 fund and the state's share for the minimum amount of funds
30 needed to begin the project has been appropriated by the
31 Legislature. The Board of Governors shall establish a method



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1 for validating the receipt and deposit of private matching
2 funds. The Legislature may appropriate the state's matching
3 funds in one or more fiscal years for the planning,
4 construction, and equipping of an eligible facility. However,
5 these requirements shall not preclude the university from
6 expending available funds from private sources to develop a
7 prospectus, including preliminary architectural schematics or
8 and/or models, for use in its efforts to raise private funds
9 for a facility. Additionally, any private sources of funds
10 expended for this purpose are eligible for state matching
11 funds should the project materialize as provided for in this
12 section.

13 (6)(5) To be eligible to participate in the Alec P.
14 Courtelis University Facility Enhancement Challenge Grant
15 Program Capital-Facilities-Matching-Trust-Fund, a university
16 shall raise a contribution equal to one-half of the total cost
17 of a facilities construction project from private
18 nongovernmental sources which shall be matched by a state
19 appropriation equal to the amount raised for a facilities
20 construction project subject to the General Appropriations
21 Act.

22 (7)(6) If the state's share of the required match is
23 insufficient to meet the requirements of subsection (6) (5),
24 the university shall renegotiate the terms of the contribution
25 with the donors. If the project is terminated, each private
26 donation, plus accrued interest, reverts to the foundation for
27 remittance to the donor.

28 (8)(7) By October ~~September~~ 1 of each year, the State
29 Board of Governors ~~Education~~ shall transmit to the Legislature
30 a list of projects that ~~which~~ meet all eligibility
31 requirements to participate in the Alec P. Courtelis



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1 University Facility Enhancement Challenge Grant Program
2 ~~Capital-Facilities-Matching-Trust-Fund~~ and a budget request
3 that which includes the recommended schedule necessary to
4 complete each project.

5 ~~(9)(8)~~ In order for a project to be eligible under
6 this program, it must be included in the university 5-year
7 capital improvement plan and must receive ~~prier~~ approval from
8 the State Board of Governors or Education and the Legislature.

9 ~~(10)(9)~~ A No university's project may not ~~shall~~ be
10 removed from the approved 3-year PECO priority list because of
11 its successful participation in this program until approved by
12 the Legislature and provided for in the General Appropriations
13 Act. When such a project is completed and removed from the
14 list, all other projects shall move up on the 3-year PECO
15 priority list. A university shall not use PECO funds,
16 including the Capital Improvement Trust Fund fee and the
17 building fee, to complete a project under this section.

18 ~~(10)--Any-project-funds-that-are-unexpended-after-a~~
19 ~~project-is-completed-shall-revert-to-the-Capital-Facilities~~
20 ~~Matching-Trust-Fund--Fifty-percent-of-such-unexpended-funds~~
21 ~~shall-be-reserved-for-the-university-which-originally-received~~
22 ~~the-private-contribution-for-the-purpose-of-providing-private~~
23 ~~matching-funds-for-future-facility-construction-projects-as~~
24 ~~provided-in-this-section--The-balance-of-such-unexpended-funds~~
25 ~~shall-be-available-to-any-state-university-for-future-facility~~
26 ~~construction-projects-conducted-pursuant-to-this-section--~~

27 (11) The surveys, architectural plans, facility, and
28 equipment shall be the property of the State of Florida. A
29 facility constructed pursuant to this section may be named in
30 honor of a donor at the option of the university and the State
31 Board of Governors Education. No facility shall be named after



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1 a living person without prior approval by the Legislature.

2 Section 3. This act shall take effect July 1, 2007.

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5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 Delete everything before the enacting clause

8
9 and insert:

10 A bill to be entitled

11 An act relating to facility enhancement
12 challenge grant programs; amending s. 1011.32,
13 F.S., relating to the Community College
14 Facility Enhancement Challenge Grant Program;
15 requiring that a project be approved by the
16 State Board of Education or the Legislature;
17 requiring that unexpended private matching
18 funds revert to the direct-support organization
19 capital facilities matching account of the
20 community college; requiring that unexpended
21 state matching funds revert to the trust fund
22 from which the funds were appropriated;
23 amending s. 1013.79, F.S., relating to the
24 University Facility Enhancement Challenge Grant
25 Program; providing for the future termination
26 of the Alec P. Courtelis Capital Facilities
27 Matching Trust Fund; prescribing procedures for
28 terminating the trust fund; requiring each
29 state university to establish a facilities
30 matching grant program account for the deposit
31 of private contributions; providing for the



1 transfer of state funds with respect to the
2 account; removing certain sources of state
3 funds for use in matching private
4 contributions; requiring the Board of Governors
5 of the State University System to establish a
6 method for validating the receipt and deposit
7 of private matching funds; requiring the Board
8 of Governors rather than the State Board of
9 Education to approve projects under the Alec P.
10 Courtelis University Facility Enhancement
11 Challenge Grant Program; deleting provisions
12 providing for the reversion of trust fund
13 moneys to conform to changes made by the act;
14 providing for the Board of Governors to approve
15 the naming of a facility in honor of a donor;
16 providing an effective date.

The Conference Committee Amendment for CS/SB 1088 relating to due process

- The bill creates five criminal conflict and civil regional counsels with appropriate powers and duties. The offices begin fulfilling their duties October 1, 2007.
- The Supreme Court Judicial Nominating Commission is required to provide three candidates for each of the regional counsels to the Governor for appointment.
- The regional counsels are administratively housed in the Justice Administrative Commission (JAC) and receive administrative support from the JAC.
- The regional counsels take criminal conflict cases from the public defender. When the regional offices have a conflict of interest, the court appoints private counsel.
- The regional counsel shall represent all indigent parents in dependency proceedings and other civil cases where persons are entitled to legal representation at state expense, unless the regional counsel has a conflict of interest, then the court will appoint private counsel.
- The local indigent services committees are eliminated. The court will establish a registry of private attorneys and the clerk of the court shall maintain the registry. The chief judge in each circuit will recommend rates for non-attorney due process services to the Legislature each year beginning in fiscal year 2008-09. The Legislature will adopt rates in General Appropriations Act.
- Caps for certain attorney fees for private counsel are set in statute for both criminal conflict and dependency, while the maximum rates for all types of cases will be set each year in the General Appropriations Act. The rate for capital cases is raised from \$3,500 to \$15,000. Rates for dependency are set at \$1,000 for the first year of representation and \$200 for each year after. Other rates are continued from existing law.
- Rates for private counsel are set as flat fees; other fee arrangements allowed under statute are stricken. Private counsel is given 90 days to submit billings to the JAC and must furnish performance information.
- The bill provides a procedure for when private attorneys for criminal conflict or dependency believe the case is extraordinary and the state fee is insufficient. The chief judge will hold a hearing on the issue and the bill provides some criteria to be used to determine if cases merit a higher fee. The court reports to the Legislature the number and amount of extraordinary cases.
- The bill defines the regional counsel offices as an element of the state court system and requires the counties to provide facilities, technology, and other support as required for the other entities of the state court system.
- The bill has various effective dates. Some provisions, such as those relating to rates paid to private counsel become effective upon becoming law; the regional counsel is appointed July 1, 2007 and assumes the duties October 1, 2007.

Bill No. CS for SB 1088



314540

CHAMBER ACTION

Senate

House

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The Conference Committee on CS for SB 1088 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Effective October 1, 2007, subsections (1), (2), (3), (7), and (9) of section 27.40, Florida Statutes, are amended to read:

27.40 Court-appointed counsel; circuit registries; minimum requirements; appointment by court.--

(1) Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court shall appoint a public defender to represent indigent persons as authorized in s. 27.51. The office of criminal conflict and civil regional counsel shall be appointed to represent persons in those cases in which provision is made for court-appointed counsel but the public defender is unable to provide



1 representation due to a conflict of interest or is not
2 authorized to provide representation.

3 (2) (a) Private counsel shall be appointed to represent
4 persons indigents in those cases in which provision is made
5 for court-appointed counsel but the office of criminal
6 conflict and civil regional counsel public-defender is unable
7 to provide representation due to a conflict of interest ~~or-is~~
8 ~~not-authorized-to-provide-representation.~~

9 ~~(b) (2)~~ Private counsel appointed by the court to
10 provide representation shall be selected from a registry of
11 individual attorneys maintained under this section established
12 ~~by-the-circuit-Article-V-indigent-services-committee-or~~
13 ~~procured-through-a-competitive-bidding-process.~~

14 (3) In utilizing a registry:

15 (a) The chief judge of the circuit ~~Each-circuit~~
16 ~~Article-V-indigent-services-committee~~ shall compile and
17 ~~maintain~~ a list of attorneys in private practice, by county
18 and by category of cases and provide the list to the clerk of
19 court in each county. From October 1, 2005, through September
20 30, 2007, the list of attorneys compiled by the Eleventh
21 Judicial Circuit shall provide the race, gender, and national
22 origin of assigned attorneys. To be included on a registry,
23 attorneys shall certify that they meet any minimum
24 requirements established in general law for court appointment,
25 are available to represent indigent defendants in cases
26 requiring court appointment of private counsel, and are
27 willing to abide by the terms of the contract for services. To
28 be included on a registry, an attorney also must enter into a
29 contract for services with the Justice Administrative
30 Commission. Failure to comply with the terms of the contract
31 for services may result in termination of the contract and



1 removal from the registry. Each attorney on the registry shall
2 be responsible for notifying the clerk of the court circuit
3 ~~Article-V-indigent-services-committee~~ and the Justice
4 Administrative Commission of any change in his or her status.
5 Failure to comply with this requirement shall be cause for
6 termination of the contract for services and removal from the
7 registry until the requirement is fulfilled.

8 (b) The court shall appoint attorneys in rotating
9 order in the order in which names appear on the applicable
10 registry, unless the court makes a finding of good cause on
11 the record for appointing an attorney out of order. The clerk
12 of court shall maintain the registry and provide to the court
13 the name of the attorney for appointment. An attorney not
14 appointed in the order in which his or her name appears on the
15 list shall remain next in order.

16 (c) If ~~it-finds~~ the number of attorneys on the
17 registry in a county or circuit for a particular category of
18 cases is inadequate, ~~the-circuit-Article-V-indigent-services~~
19 ~~committee-shall-notify~~ the chief judge of the particular
20 circuit ~~in-writing--The-chief-judge~~ shall provide to the clerk
21 of court submit the names of at least three private attorneys
22 who have with relevant experience. The clerk of court shall
23 send an application to each of these attorneys to register for
24 appointment.

25 (d) Quarterly, each chief judge circuit-Article-V
26 ~~indigent-services-committee~~ shall provide a current copy of
27 each registry to the Chief Justice of the Supreme Court, the
28 ~~chief-judge~~, the state attorney and public defender in each
29 judicial circuit, the office of criminal conflict and civil
30 regional counsel, the clerk of court in each county, and the
31 Justice Administrative Commission~~7-and-the-Indigent-Services~~



1 Advisory-Board. From October 1, 2005, through September 30,
2 2007, the report submitted by the Eleventh Judicial Circuit
3 shall include the race, gender, and national origin of all
4 attorneys listed in and appointed under the registry.

5 (7) (a) A private ~~An~~ attorney appointed by the court
6 ~~from the registry~~ to represent a defendant-or-other client is
7 entitled to payment as provided in pursuant-to s. 27.5304. An
8 attorney appointed by the court who is not on the registry
9 list may be compensated under s. 27.5304 if the court finds in
10 the order of appointment that there were no registry attorneys
11 available for representation for that case.~~only-upon-full~~
12 ~~performance-by-the-attorney-of-specified-duties,-approval-of~~
13 ~~payment-by-the-court,-except-for-payment-based-on-a-flat-fee~~
14 ~~per-case-as-provided-in-s.-27-5304,-and-attorney-submission-of~~
15 ~~a-payment-request-to-the-Justice-Administrative-Commission-~~
16 ~~Upon-being-permitted-to-withdraw-from-a-case,-a~~
17 ~~court-appointed-attorney-shall-submit-a-copy-of-the-order-to~~
18 ~~the-Justice-Administrative-Commission-at-the-time-it-is-issued~~
19 ~~by-the-court.-If-an-attorney-is-permitted-to-withdraw-or-is~~
20 ~~otherwise-removed-from-representation-prior-to-full~~
21 ~~performance-of-the-duties-specified-in-this-section-for~~
22 ~~reasons-other-than-breach-of-duty,-the-trial-court-shall~~
23 ~~approve-payment-of-attorney's-fees-and-costs-for-work~~
24 ~~performed-in-an-amount-not-to-exceed-the-amounts-specified-in~~
25 ~~s.-27-5304.-Withdrawal-from-a-case-prior-to-full-performance~~
26 ~~of-the-duties-specified-shall-create-a-rebuttable-presumption~~
27 ~~that-the-attorney-is-not-entitled-to-the-entire-flat-fee-for~~
28 ~~those-cases-paid-on-a-flat-fee-per-case-basis-~~

29 (b) The attorney shall maintain appropriate
30 documentation, including contemporaneous a-current and
31 detailed hourly accounting of time spent representing the



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1 defendant-or-other client. If the attorney fails to maintain
2 such contemporaneous and detailed hourly records, the attorney
3 waives the right to seek compensation in excess of the flat
4 fee established in s. 27.5304 and the General Appropriations
5 Act. These records and documents are subject to review by the
6 Justice Administrative Commission, subject to the
7 attorney-client privilege and work product privilege.

8 (9) ~~A-circuit-Article-V-indigent-services-committee-or~~
9 Any interested person may advise the court of any circumstance
10 affecting the quality of representation, including, but not
11 limited to, false or fraudulent billing, misconduct, failure
12 to meet continuing legal education requirements, solicitation
13 to receive compensation from the defendant-or-other client the
14 attorney is appointed to represent, or failure to file
15 appropriate motions in a timely manner.

16 (10) The attorney shall provide information in the
17 form specified by the Justice Administrative Commission
18 pursuant to s. 27.405, subject to the attorney-client
19 privilege and work product privilege.

20 Section 2. Effective October 1, 2007, section 27.405,
21 Florida Statutes, is created to read:

22 27.405 Court-appointed counsel; Justice Administrative
23 Commission tracking and reporting.--

24 (1) The Justice Administrative Commission shall
25 separately track expenditures and performance measures for
26 private court-appointed counsel for the each of the categories
27 of criminal or civil cases in which private counsel may be
28 appointed.

29 (2) The commission shall prepare and issue on a
30 quarterly basis a statewide report comparing actual
31 year-to-date expenditures to budget amounts for each of the



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1 judicial circuits. The commission shall prepare and issue on
2 an annual basis a statewide report comparing performance
3 measures for each of the judicial circuits. The commission
4 shall distribute copies of the quarterly and annual reports to
5 the Governor, the Chief Justice of the Supreme Court, the
6 President of the Senate, and the Speaker of the House of
7 Representatives.

8 (3) From October 1, 2005, through September 30, 2007,
9 the commission shall also track and issue a report on the
10 race, gender, and national origin of private court-appointed
11 counsel for the Eleventh Judicial Circuit.

12 Section 3. Effective October 1, 2007, section 27.425,
13 Florida Statutes, is created to read:

14 27.425 Due process service rates; responsibilities of
15 chief judge.--

16 (1) The chief judge of each circuit shall recommend
17 compensation rates for state-funded due process service
18 providers in cases in which the court has appointed private
19 counsel or declared a person indigent for costs. For purposes
20 of this section, due process compensation rates do not include
21 attorney's fees for legal representation of the client.

22 (2) Annually, the chief judge shall submit proposed
23 due process compensation rates to the Office of the State
24 Courts Administrator for inclusion in the legislative budget
25 request for the state courts system.

26 (3) The maximum rates shall be specified annually in
27 the General Appropriations Act. For the 2007-2008 fiscal year,
28 the maximum rates shall be the rates in effect on June 30,
29 2007.

30 (4) The total amount expended for providers of due
31 process services in eligible cases may not exceed the amount



1 budgeted in the General Appropriations Act for the particular
2 due process service.

3 Section 4. Section 27.511, Florida Statutes, is
4 created to read:

5 27.511 Offices of criminal conflict and civil regional
6 counsel; legislative intent; qualifications; appointment;
7 duties.--

8 (1) It is the intent of the Legislature to provide
9 adequate representation to persons entitled to court-appointed
10 counsel under the Federal or State Constitution or as
11 authorized by general law. It is the further intent of the
12 Legislature to provide adequate representation in a fiscally
13 sound manner, while safeguarding constitutional principles.
14 Therefore, an office of criminal conflict and civil regional
15 counsel is created within the geographic boundaries of each of
16 the five district courts of appeal. The regional counsel shall
17 be appointed as set forth in subsection (3) for each of the
18 five regional offices. The offices shall commence fulfilling
19 their constitutional and statutory purpose and duties on
20 October 1, 2007.

21 (2) Each office of criminal conflict and civil
22 regional counsel shall be assigned to the Justice
23 Administrative Commission for administrative purposes. The
24 commission shall provide administrative support and service to
25 the offices to the extent requested by each regional counsel
26 within the available resources of the commission. The regional
27 counsel and the offices are not subject to control,
28 supervision, or direction by the commission in the performance
29 of their duties, but the employees of the offices shall be
30 governed by the classification plan and the salary and
31 benefits plan for the commission.



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1 (3) Each regional counsel must be, and must have been
2 for the preceding 5 years, a member in good standing of The
3 Florida Bar or a similar organization in another state. Each
4 regional counsel shall be appointed by the Governor and is
5 subject to confirmation by the Senate. The Supreme Court
6 Judicial Nominating Commission shall recommend to the Governor
7 three qualified candidates for appointment to each of the five
8 regional counsel positions. The Governor shall appoint the
9 regional counsel for the five regions from among the
10 recommendations, or, if it is in the best interest of the fair
11 administration of justice, the Governor may reject the
12 nominations and request that the Supreme Court Judicial
13 Nominating Commission submit three new nominees. The regional
14 counsel shall be appointed to a term of 4 years, the first
15 term beginning on July 1, 2007. Vacancies shall be filled in
16 the same manner as appointments.

17 (4) Each regional counsel shall serve on a full-time
18 basis and may not engage in the private practice of law while
19 holding office. Assistant regional counsel shall give priority
20 and preference to their duties as assistant regional counsel
21 and may not otherwise engage in the practice of criminal law
22 or in civil proceedings for which the state compensates
23 attorneys for representation.

24 (5) Effective October 1, 2007, when the Office of the
25 Public Defender, at any time during the representation of two
26 or more defendants, determines that the interests of those
27 accused are so adverse or hostile that they cannot all be
28 counseled by the public defender or his or her staff without a
29 conflict of interest, or that none can be counseled by the
30 public defender or his or her staff because of a conflict of
31 interest, and the court grants the public defender's motion to



1 withdraw, the office of criminal conflict and civil regional
2 counsel shall be appointed and shall provide legal services,
3 without additional compensation, to any person determined to
4 be indigent under s. 27.52, who is:

5 (a) Under arrest for, or charged with, a felony;

6 (b) Under arrest for, or charged with:

7 1. A misdemeanor authorized for prosecution by the
8 state attorney;

9 2. A violation of chapter 316 punishable by
10 imprisonment;

11 3. Criminal contempt; or

12 4. A violation of a special law or county or municipal
13 ordinance ancillary to a state charge, or if not ancillary to
14 a state charge, only if the office of criminal conflict and
15 civil regional counsel contracts with the county or
16 municipality to provide representation pursuant to ss. 27.54
17 and 125.69.

18
19 The office of criminal conflict and civil regional counsel may
20 not provide representation pursuant to this paragraph if the
21 court, prior to trial, files in the cause an order of no
22 imprisonment as provided in s. 27.512;

23 (c) Alleged to be a delinquent child pursuant to a
24 petition filed before a circuit court;

25 (d) Sought by petition filed in such court to be
26 involuntarily placed as a mentally ill person under part I of
27 chapter 394, involuntarily committed as a sexually violent
28 predator under part V of chapter 394, or involuntarily
29 admitted to residential services as a person with
30 developmental disabilities under chapter 393;

31 (e) Convicted and sentenced to death, for purposes of



1 handling an appeal to the Supreme Court; or

2 (f) Is appealing a matter in a case arising under
3 paragraphs (a)-(d).

4 (6)(a) Effective October 1, 2007, the office of
5 criminal conflict and civil regional counsel has primary
6 responsibility for representing persons entitled to
7 court-appointed counsel under the Federal or State
8 Constitution or as authorized by general law in civil
9 proceedings, including, but not limited to, proceedings under
10 s. 393.12 and chapters 39, 390, 392, 397, 415, 743, 744, and
11 984.

12 (b) If constitutional principles or general law
13 provide for court-appointed counsel in civil proceedings, the
14 court shall first appoint the regional counsel unless general
15 law specifically provides for appointment of the public
16 defender, in which case the court shall appoint the regional
17 counsel if the public defender has a conflict of interest.

18 (c) Notwithstanding paragraph (b) or any provision of
19 chapter 744 to the contrary, when chapter 744 provides for
20 appointment of counsel, the court, in consultation with the
21 clerk of court and prior to appointing counsel, shall
22 determine, if possible, whether the person entitled to
23 representation is indigent, using the best available evidence.

24 1. If the person is indigent, the court shall appoint
25 the regional counsel. If at any time after appointment the
26 regional counsel determines that the person is not indigent
27 and that there are sufficient assets available for the payment
28 of legal representation under s. 744.108, the regional counsel
29 shall move the court to reassign the case to a private
30 attorney.

31 2. If the person is not indigent or if the court and



1 the clerk are not able to determine whether the person is
2 indigent at the time of appointment, the court shall appoint a
3 private attorney. If at any time after appointment the private
4 attorney determines that the person is indigent and that there
5 are not sufficient assets available for the payment of legal
6 representation under s. 744.108, the private attorney shall
7 move the court to reassign the case to the regional counsel.
8 When a case is reassigned, the private attorney may seek
9 compensation from the Justice Administrative Commission for
10 representation not recoverable from any assets of the person
11 in an amount approved by the court as a pro rata portion of
12 the compensation limits prescribed in the General
13 Appropriations Act.

14 (d) The regional counsel may not represent any
15 plaintiff in a civil action brought under the Florida Rules of
16 Civil Procedure, the Federal Rules of Civil Procedure, or
17 federal statutes, and may not represent a petitioner in a rule
18 challenge under chapter 120, unless specifically authorized by
19 law.

20 (7) The court may not appoint the office of criminal
21 conflict and civil regional counsel to represent, even on a
22 temporary basis, any person who is not indigent, except to the
23 extent that appointment of counsel is specifically provided
24 for in chapters 390, 394, 415, 743, and 744 without regard to
25 the indigent status of the person entitled to representation.

26 (8) The office of criminal conflict and civil regional
27 counsel shall handle all circuit court appeals within the
28 state courts system and any authorized appeals to the federal
29 courts which are required in cases in which the office of
30 criminal conflict and civil regional counsel is appointed
31 under this section.



1 (9) When direct appellate proceedings prosecuted by
2 the office of criminal conflict and civil regional counsel on
3 behalf of an accused and challenging a judgment of conviction
4 and sentence of death terminate in an affirmance of such
5 conviction and sentence, whether by the Supreme Court or by
6 the United States Supreme Court or by expiration of any
7 deadline for filing such appeal in a state or federal court,
8 the office of criminal conflict and civil regional counsel
9 shall notify the accused of his or her rights pursuant to Rule
10 3.850, Florida Rules of Criminal Procedure, including any time
11 limits pertinent thereto, and shall advise such person that
12 representation in any collateral proceedings is the
13 responsibility of the capital collateral regional counsel. The
14 office of criminal conflict and civil regional counsel shall
15 forward all original files on the matter to the capital
16 collateral regional counsel, retaining such copies for his or
17 her files as may be desired or required by law. However, the
18 trial court shall retain the power to appoint the office of
19 criminal conflict and civil regional counsel or other attorney
20 not employed by the capital collateral regional counsel to
21 represent such person in proceedings for relief by executive
22 clemency pursuant to ss. 27.40 and 27.5303.

23 Section 5. Effective July 1, 2007, subsection (1) of
24 section 27.512, Florida Statutes, is amended to read:

25 27.512 Order of no imprisonment.--

26 (1) In each case in which the court determines that it
27 will not sentence the defendant to imprisonment if convicted,
28 the court shall issue an order of no imprisonment and the
29 court may not appoint the public defender or other counsel to
30 represent the defendant. If the court issues an order of no
31 imprisonment following the appointment of the public defender



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1 or other counsel, the court shall immediately terminate the
2 appointed counsel's public-defender's services. However, if at
3 any time the court withdraws the order of no imprisonment with
4 respect to an indigent defendant, the court shall appoint the
5 public defender to represent the defendant.

6 Section 6. Effective October 1, 2007, subsections (2),
7 (3), (4), (5), (6), and (7) of section 27.52, Florida
8 Statutes, are amended to read:

9 27.52 Determination of indigent status.--

10 (2) DETERMINATION BY THE CLERK.--The clerk of the
11 court shall determine whether an applicant seeking appointment
12 of a public defender is indigent based upon the information
13 provided in the application and the criteria prescribed in
14 this subsection.

15 (a)1. An applicant, including an applicant who is a
16 minor or an adult tax-dependent person, is indigent if the
17 applicant's income is equal to or below 200 percent of the
18 then-current federal poverty guidelines prescribed for the
19 size of the household of the applicant by the United States
20 Department of Health and Human Services or if the person is
21 receiving Temporary Assistance for Needy Families-Cash
22 Assistance, poverty-related veterans' benefits, or
23 Supplemental Security Income (SSI).

24 2. There is a presumption that the applicant is not
25 indigent if the applicant owns, or has equity in, any
26 intangible or tangible personal property or real property or
27 the expectancy of an interest in any such property having a
28 net equity value of \$2,500 or more, excluding the value of the
29 person's homestead and one vehicle having a net value not
30 exceeding \$5,000.

31 (b) Based upon its review, the clerk shall make one of



1 the following determinations:

2 1. The applicant is not indigent.

3 2. The applicant is indigent.

4 (c)1. If the clerk determines that the applicant is
5 indigent, the clerk shall submit the determination to the
6 office of the public defender and immediately file the
7 determination in the case file.

8 2. If the public defender is unable to provide
9 representation due to a conflict pursuant to s. 27.5303, the
10 public defender shall move the court for withdrawal from
11 representation and appointment of the office of criminal
12 conflict and civil regional private counsel.

13 (d) The duty of the clerk in determining whether an
14 applicant is indigent shall be limited to receiving the
15 application and comparing the information provided in the
16 application to the criteria prescribed in this subsection. The
17 determination of indigent status is a ministerial act of the
18 clerk and not a decision based on further investigation or the
19 exercise of independent judgment by the clerk. The clerk may
20 contract with third parties to perform functions assigned to
21 the clerk under this section.

22 (e) The applicant may seek review of the clerk's
23 determination that the applicant is not indigent in the court
24 having jurisdiction over the matter at the next scheduled
25 hearing. If the applicant seeks review of the clerk's
26 determination of indigent status, the court shall make a final
27 determination as provided in subsection (4).

28 (3) APPOINTMENT OF COUNSEL ON INTERIM BASIS.--If the
29 clerk of the court has not made a determination of indigent
30 status at the time a person requests appointment of a public
31 defender, the court shall make a preliminary determination of



1 indigent status, pending further review by the clerk, and may,
2 by court order, appoint a public defender, the office of
3 criminal conflict and civil regional counsel, or private
4 counsel on an interim basis.

5 (4) REVIEW OF CLERK'S DETERMINATION.--

6 (a) If the clerk of the court determines that the
7 applicant is not indigent, and the applicant seeks review of
8 the clerk's determination, the court shall make a final
9 determination of indigent status by reviewing the information
10 provided in the application against the criteria prescribed in
11 subsection (2) and by considering the following additional
12 factors:

13 1. Whether the applicant has been released on bail in
14 an amount of \$5,000 or more.

15 2. Whether a bond has been posted, the type of bond,
16 and who paid the bond.

17 3. Whether paying for private counsel in an amount
18 that exceeds the limitations in s. 27.5304, or other due
19 process services creates a substantial hardship for the
20 applicant or the applicant's family.

21 4. Any other relevant financial circumstances of the
22 applicant or the applicant's family.

23 (b) Based upon its review, the court shall make one of
24 the following determinations and, if the applicant is
25 indigent, shall appoint a public defender, the office of
26 criminal conflict and civil regional counsel, or, if
27 appropriate, private counsel:

28 1. The applicant is not indigent.

29 2. The applicant is indigent.

30 (5) INDIGENT FOR COSTS.--A person who is eligible to
31 be represented by a public defender under s. 27.51 but who is



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1 represented by private counsel not appointed by the court for
2 a reasonable fee as approved by the court, on a pro bono
3 basis, or who is proceeding pro se, may move the court for a
4 determination that he or she is indigent for costs and
5 eligible for the provision of due process services, as
6 prescribed by ss. 29.006 and 29.007, funded by the state.

7 (a) The person must submit to the court:

8 1. The completed application prescribed in subsection
9 (1).

10 2. In the case of a person represented by counsel, an
11 affidavit attesting to the estimated amount of attorney's fees
12 and the source of payment for these fees.

13 (b) In reviewing the motion, the court shall consider:

14 1. Whether the applicant applied for a determination
15 of indigent status under subsection (1) and the outcome of
16 such application.

17 2. The extent to which the person's income equals or
18 exceeds the income criteria prescribed in subsection (2).

19 3. The additional factors prescribed in subsection
20 (4).

21 4. Whether the applicant is proceeding pro se.

22 5. When the applicant retained private counsel.

23 6. The amount of any attorney's fees and who is paying
24 the fees.

25 (c) Based upon its review, the court shall make one of
26 the following determinations:

27 1. The applicant is not indigent for costs.

28 2. The applicant is indigent for costs.

29 (d) The provision of due process services based upon a
30 determination that a person is indigent for costs under this
31 subsection must be effectuated pursuant to a court order, a



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1 copy of which the clerk shall provide to counsel representing
2 the person, or to the person directly if he or she is
3 proceeding pro se, for use in requesting payment of due
4 process expenses through the Justice Administrative
5 Commission. Private counsel representing a person declared
6 indigent for costs shall execute the Justice Administrative
7 Commission's contract for counsel representing persons
8 determined to be indigent for costs.

9 (6) DUTIES OF PARENT OR LEGAL GUARDIAN.--A nonindigent
10 parent or legal guardian of an applicant who is a minor or an
11 adult tax-dependent person shall furnish the minor or adult
12 tax-dependent person with the necessary legal services and
13 costs incident to a delinquency proceeding or, upon transfer
14 of such person for criminal prosecution as an adult pursuant
15 to chapter 985, a criminal prosecution in which the person has
16 a right to legal counsel under the Constitution of the United
17 States or the Constitution of the State of Florida. The
18 failure of a parent or legal guardian to furnish legal
19 services and costs under this section does not bar the
20 appointment of legal counsel pursuant to this section, s.
21 27.40, or s. 27.5303. When the public defender, the office of
22 criminal conflict and civil regional counsel, a private
23 court-appointed conflict counsel, or a private attorney is
24 appointed to represent a minor or an adult tax-dependent
25 person in any proceeding in circuit court or in a criminal
26 proceeding in any other court, the parents or the legal
27 guardian shall be liable for payment of the fees, charges, and
28 costs of the representation even if the person is a minor
29 being tried as an adult. Liability for the fees, charges, and
30 costs of the representation shall be imposed in the form of a
31 lien against the property of the nonindigent parents or legal



1 guardian of the minor or adult tax-dependent person. The lien
2 is enforceable as provided in s. 27.561 or s. 938.29.

3 (7) FINANCIAL DISCREPANCIES; FRAUD; FALSE
4 INFORMATION.--

5 (a) If the court learns of discrepancies between the
6 application or motion and the actual financial status of the
7 person found to be indigent or indigent for costs, the court
8 shall determine whether the public defender, office of
9 criminal conflict and civil regional counsel, or private
10 attorney shall continue representation or whether the
11 authorization for any other due process services previously
12 authorized shall be revoked. The person may be heard regarding
13 the information learned by the court. If the court, based on
14 the information, determines that the person is not indigent or
15 indigent for costs, the court shall order the public defender,
16 office of criminal conflict and civil regional counsel, or
17 private attorney to discontinue representation and revoke the
18 provision of any other authorized due process services.

19 (b) If the court has reason to believe that any
20 applicant, through fraud or misrepresentation, was improperly
21 determined to be indigent or indigent for costs, the matter
22 shall be referred to the state attorney. Twenty-five percent
23 of any amount recovered by the state attorney as reasonable
24 value of the services rendered, including fees, charges, and
25 costs paid by the state on the person's behalf, shall be
26 remitted to the Department of Revenue for deposit into the
27 Grants and Donations Trust Fund within the Justice
28 Administrative Commission. Seventy-five percent of any amount
29 recovered shall be remitted to the Department of Revenue for
30 deposit into the General Revenue Fund.

31 (c) A person who knowingly provides false information



1 to the clerk or the court in seeking a determination of
2 indigent status under this section commits a misdemeanor of
3 the first degree, punishable as provided in s. 775.082 or s.
4 775.083.

5 Section 7. Effective July 1, 2007, section 27.525,
6 Florida Statutes, is amended to read:

7 27.525 Indigent Criminal Defense Trust Fund.--The
8 Indigent Criminal Defense Trust Fund is hereby created, to be
9 administered by the Justice Administrative Commission. Funds
10 shall be credited to the trust fund as provided in s. 27.52,
11 to be used for the purposes of indigent criminal defense as
12 appropriated by the Legislature to the public defender or the
13 office of criminal conflict and civil regional counsel set
14 forth-therein. The Justice Administrative Commission shall
15 account for these funds on a circuit basis, and appropriations
16 from the fund shall be proportional to each circuit's
17 collections.

18 Section 8. Effective July 1, 2007, subsections (4) and
19 (5) are added to section 27.53, Florida Statutes, to read:

20 27.53 Appointment of assistants and other staff;
21 method of payment.--

22 (4) The five criminal conflict and civil regional
23 counsel may employ and establish, in the numbers authorized by
24 the General Appropriations Act, assistant regional counsel and
25 other staff and personnel in each judicial district pursuant
26 to s. 29.006, who shall be paid from funds appropriated for
27 that purpose. Notwithstanding s. 790.01, s. 790.02, or s.
28 790.25(2)(a), an investigator employed by an office of
29 criminal conflict and civil regional counsel, while actually
30 carrying out official duties, is authorized to carry concealed
31 weapons if the investigator complies with s. 790.25(3)(o).



1 However, such investigators are not eligible for membership in
2 the Special Risk Class of the Florida Retirement System. The
3 five regional counsel shall jointly develop recommended
4 modifications to the classification plan and the salary and
5 benefits plan for the Justice Administrative Commission. The
6 recommendations shall be submitted to the commission, the
7 office of the President of the Senate, and the office of the
8 Speaker of the House of Representatives by September 15, 2007,
9 for the regional offices' initial establishment and before
10 January 1 of each year thereafter. Such recommendations shall
11 be developed in accordance with policies and procedures of the
12 Executive Office of the Governor established in s. 216.181.
13 Each assistant regional counsel appointed by the regional
14 counsel under this section shall serve at the pleasure of the
15 regional counsel. Each investigator employed by the regional
16 counsel shall have full authority to serve any witness
17 subpoena or court order issued by any court or judge in a
18 criminal case in which the regional counsel has been appointed
19 to represent the accused.

20 (5) The appropriations for the offices of criminal
21 conflict and civil regional counsel shall be determined by a
22 funding formula and other factors that are considered
23 appropriate in a manner to be determined by this section and
24 the General Appropriations Act.

25 Section 9. Effective July 1, 2007, section 27.5301,
26 Florida Statutes, is amended to read:

27 27.5301 Salaries of public defenders, and assistant
28 public defenders, criminal conflict and civil regional
29 counsel, and assistant regional counsel.--

30 (1) The salaries of public defenders shall be as
31 provided in the General Appropriations Act and shall be paid



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1 in equal monthly installments.

2 (2) The salary for each assistant public defender
3 shall be set by the public defender of the same judicial
4 circuit in an amount not to exceed 100 percent of that public
5 defender's salary and shall be paid from funds appropriated
6 for that purpose. Assistant public defenders who serve in less
7 than a full-time capacity shall be compensated for services
8 performed in an amount to be in proportion to the salary
9 allowed for full-time services.

10 (3) The salary of the criminal conflict and civil
11 regional counsel shall be as provided in the General
12 Appropriations Act and shall be paid in equal monthly
13 installments.

14 (4) The salary for each assistant regional counsel
15 shall be set by the regional counsel in an amount not to
16 exceed 100 percent of the regional counsel's salary and shall
17 be paid from funds appropriated for that purpose. Assistant
18 regional counsel who serve in less than a full-time capacity
19 shall be compensated for services performed in an amount that
20 is in proportion to the salary allowed for full-time services.

21 Section 10. Effective October 1, 2007, section
22 27.5303, Florida Statutes, is amended to read:

23 27.5303 Public defenders; criminal conflict and civil
24 regional counsel; conflict of interest.--

25 (1)(a) If, at any time during the representation of
26 two or more defendants, a public defender determines that the
27 interests of those accused are so adverse or hostile that they
28 cannot all be counseled by the public defender or his or her
29 staff without conflict of interest, or that none can be
30 counseled by the public defender or his or her staff because
31 of a conflict of interest, then the public defender shall file



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1 a motion to withdraw and move the court to appoint other
2 counsel. ~~If requested by the Justice Administrative~~
3 ~~Commission, the public defender shall submit a copy of the~~
4 ~~motion to the Justice Administrative Commission at the time it~~
5 ~~is filed with the court. The Justice Administrative Commission~~
6 ~~shall have standing to appear before the court to contest any~~
7 ~~motion to withdraw due to a conflict of interest. The Justice~~
8 ~~Administrative Commission may contract with other public or~~
9 ~~private entities or individuals to appear before the court for~~
10 ~~the purpose of contesting any motion to withdraw due to a~~
11 ~~conflict of interest. The court shall review and may inquire~~
12 ~~or conduct a hearing into the adequacy of the public~~
13 ~~defender's representations regarding a conflict of interest~~
14 ~~without requiring the disclosure of any confidential~~
15 ~~communications. The court shall deny the motion to withdraw if~~
16 ~~the court finds the grounds for withdrawal are insufficient or~~
17 ~~the asserted conflict is not prejudicial to the indigent~~
18 ~~client. If the court grants the motion to withdraw, the court~~
19 ~~shall appoint one or more attorneys to represent the accused,~~
20 as provided in s. 27.40. The public defender shall submit to
21 the Justice Administrative Commission a copy of the order
22 granting the motion to withdraw within 30 days after the
23 motion is granted. The commission shall report quarterly to
24 the Governor, the President of the Senate, and the Speaker of
25 the House of Representatives on the number of orders granting
26 motions to withdraw for each circuit.

27 (b) If, at any time during the representation of two
28 or more persons in a criminal or civil proceeding, a criminal
29 conflict and civil regional counsel determines that the
30 interests of those clients are so adverse or hostile that they
31 cannot all be counseled by the regional counsel or his or her



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1 staff without conflict of interest, or that none can be
2 counseled by the regional counsel or his or her staff because
3 of a conflict of interest, the regional counsel shall file a
4 motion to withdraw and move the court to appoint other
5 counsel. If requested by the Justice Administrative
6 Commission, the regional counsel shall submit a copy of the
7 motion to the Justice Administrative Commission at the time it
8 is filed with the court. The court shall review and may
9 inquire or conduct a hearing into the adequacy of the regional
10 counsel's representations regarding a conflict of interest
11 without requiring the disclosure of any confidential
12 communications. The court shall deny the motion to withdraw if
13 the court finds the grounds for withdrawal are insufficient or
14 the asserted conflict is not prejudicial to the client. If the
15 court grants the motion to withdraw, the court shall appoint
16 one or more private attorneys to represent the person as
17 provided in s. 27.40. The clerk of court shall inform the
18 regional office and the commission when the court appoints
19 private counsel.

20 (c)(b) Upon its own motion, the court shall appoint
21 such other counsel when the facts developed upon the face of
22 the record and court files in the case disclose a conflict of
23 interest. The clerk court shall advise the appropriate public
24 defender or criminal conflict and civil regional counsel and
25 clerk-of-court, in writing, with an electronic a copy to the
26 Justice Administrative Commission, ~~if so requested by the~~
27 ~~Justice-Administrative-Commission;~~ when the court makes making
28 the motion and appoints ~~appointing~~ one or more attorneys to
29 ~~represent-the-accused~~. The court shall specify the basis for
30 the conflict.

31 (d)(e) In no case shall the court approve a withdrawal



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1 by the public defender or criminal conflict and civil regional
2 counsel based solely upon inadequacy of funding or excess
3 workload of the public defender or regional counsel.

4 (e){d} In determining whether or not there is a
5 conflict of interest, the public defender or regional counsel
6 shall apply the standards contained in the Uniform Standards
7 for Use in Conflict of Interest Cases found in appendix C to
8 the Final Report of the Article V Indigent Services Advisory
9 Board dated January 6, 2004. Before a motion to withdraw is
10 filed under this section, the public defender or regional
11 counsel serving the circuit, or his or her designee, must:

12 1. Determine if there is a viable alternative to
13 withdrawal from representation which would remedy the conflict
14 of interest and, if its exists, implement that alternative;
15 and

16 2. Approve in writing the filing of the motion to
17 withdraw.

18 (2) The court shall appoint conflict counsel pursuant
19 to s. 27.40, first appointing the office of criminal conflict
20 and civil regional counsel and, if the office is found to have
21 a conflict, appointing private counsel. The appointed private
22 attorney may not be affiliated with the public defender, or
23 any assistant public defender, the regional counsel, or any
24 assistant regional counsel in his or her official capacity or
25 any other private attorney appointed to represent a
26 codefendant. The public defender or regional counsel may not
27 participate in case-related decisions, performance
28 evaluations, or expense determinations in conflict cases.

29 (3) Private court-appointed counsel shall be
30 compensated as provided in s. 27.5304.

31 (4) (a) If a defendant is convicted and the death



1 sentence is imposed, the appointed attorney shall continue
2 representation through appeal to the Supreme Court. The
3 attorney shall be compensated as provided in s. 27.5304. If
4 the attorney first appointed is unable to handle the appeal,
5 the court shall appoint another attorney and that attorney
6 shall be compensated as provided in s. 27.5304.

7 (b) The public defender or an attorney appointed
8 pursuant to this section may be appointed by the court
9 rendering the judgment imposing the death penalty to represent
10 an indigent defendant who has applied for executive clemency
11 as relief from the execution of the judgment imposing the
12 death penalty.

13 (c) When the appointed attorney in a capital case has
14 completed the duties imposed by this section, the attorney
15 shall file a written report in the trial court stating the
16 duties performed by the attorney and apply for discharge.

17 Section 11. Section 27.5304, Florida Statutes, is
18 amended to read:

19 27.5304 Private court-appointed counsel;
20 compensation.--

21 (1) Private court-appointed counsel shall be
22 compensated by the Justice Administrative Commission as
23 provided in-an-amount-not-to-exceed-the-fee-limits-established
24 in this section and the General Appropriations Act. The flat
25 fees prescribed in this section are limitations on
26 compensation. The specific flat fee amounts for compensation
27 shall be established annually in the General Appropriations
28 Act. The attorney also shall be reimbursed for reasonable and
29 necessary expenses in accordance with s. 29.007. If the
30 attorney is representing a defendant charged with more than
31 one offense in the same case, the attorney shall be



1 compensated at the rate provided for the most serious offense
2 for which he or she represented the defendant. This section
3 does not allow stacking of the fee limits established by this
4 section. ~~Private-court-appointed-counsel-providing~~
5 ~~representation-under-an-alternative-model-shall-enter-into-a~~
6 ~~uniform-contract-with-the-Justice-Administrative-Commission~~
7 ~~and-shall-use-the-Justice-Administrative-Commission's-uniform~~
8 ~~procedures-and-forms-in-support-of-billing-for-attorney's~~
9 ~~fees,-costs,-and-related-expenses.-Failure-to-comply-with-the~~
10 ~~terms-of-the-contract-for-services-may-result-in-termination~~
11 ~~of-the-contract.~~

12 (2) The Justice Administrative Commission shall review
13 an intended billing by private court-appointed counsel for
14 attorney's fees based on a flat fee per case for completeness
15 and compliance with contractual and, statutory, ~~and-circuit~~
16 ~~Article-V-indigent-services-committee~~ requirements. The
17 commission may approve the intended bill for a flat fee per
18 case for payment without approval by the court if the intended
19 billing is correct. An intended billing that seeks
20 compensation for any amount exceeding the flat fee established
21 for a particular type of representation, as prescribed in the
22 General Appropriations Act, shall comply with subsections (11)
23 and (12). ~~For-all-other-intended-billings,-prior-to-filing-a~~
24 ~~motion-for-an-order-approving-payment-of-attorney's-fees,~~
25 ~~costs,-or-related-expenses,-the-private-court-appointed~~
26 ~~counsel-shall-deliver-a-copy-of-the-intended-billing,-together~~
27 ~~with-supporting-affidavits-and-all-other-necessary~~
28 ~~documentation,-to-the-Justice-Administrative-Commission.-The~~
29 ~~Justice-Administrative-Commission-shall-review-the-billings,~~
30 ~~affidavit,-and-documentation-for-completeness-and-compliance~~
31 ~~with-contractual-and-statutory-requirements.-If-the-Justice~~



Administrative-Commission-objects-to-any-portion-of-the proposed-billing,-the-objection-and-reasons-therefor-shall-be communicated-to-the-private-court-appointed-counsel.-The private-court-appointed-counsel-may-thereafter-file-his-or-her motion-for-order-approving-payment-of-attorney's-fees,-costs,-or-related-expenses-together-with-supporting-affidavits-and all-other-necessary-documentation.-The-motion-must-specify whether-the-Justice-Administrative-Commission-objects-to-any portion-of-the-billing-or-the-sufficiency-of-documentation-and shall-attach-the-Justice-Administrative-Commission's-letter stating-its-objection.-The-attorney-shall-have-the-burden-to prove-the-entitlement-to-attorney's-fees,-costs,-or-related expenses.-A-copy-of-the-motion-and-attachments-shall-be-served on-the-Justice-Administrative-Commission-at-least-5-business days-prior-to-the-date-of-a-hearing.-The-Justice Administrative-Commission-shall-have-standing-to-appear-before the-court-to-contest-any-motion-for-order-approving-payment-of attorney's-fees,-costs,-or-related-expenses-and-may participate-in-a-hearing-on-the-motion-by-use-of-telephonic-or other-communication-equipment-unless-ordered-otherwise.-The Justice-Administrative-Commission-may-contract-with-other public-or-private-entities-or-individuals-to-appear-before-the court-for-the-purpose-of-contesting-any-motion-for-order approving-payment-of-attorney's-fees,-costs,-or-related expenses.-The-fact-that-the-Justice-Administrative-Commission has-not-objectioned-to-any-portion-of-the-billing-or-to-the sufficiency-of-the-documentation-is-not-binding-on-the-court-

(3) The court retains primary authority and responsibility for determining the reasonableness of all billings for attorney's fees, costs, and related expenses, subject to statutory limitations. Private court-appointed



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1 counsel is entitled to compensation upon final disposition of
2 a case~~,-except-as-provided-in-subsections-(7)-and-(8)-and-(10)-.~~

3 (4) The attorney shall submit a bill for attorney's
4 fees, costs, and related expenses within 90 days after the
5 disposition of the case at the lower court level,
6 notwithstanding any appeals. The Justice Administrative
7 Commission shall provide by contract with the attorney for
8 imposition of a penalty of 15 percent of the allowable
9 attorney's fees, costs, and related expenses for a bill that
10 is submitted more than 90 days after the disposition of the
11 case at the lower court level, notwithstanding any appeals.

12 ~~Before-final-disposition-of-a-case,-a-private-court-appointed~~
13 ~~counsel-may-file-a-motion-for-fees,-costs,-and-related~~
14 ~~expenses-for-services-completed-up-to-the-date-of-the-motion~~
15 ~~in-any-case-or-matter-in-which-legal-services-have-been~~
16 ~~provided-by-the-attorney-for-more-than-1-year.-The-amount~~
17 ~~approved-by-the-court-may-not-exceed-80-percent-of-the-fees~~
18 ~~earned,-or-costs-and-related-expenses-incurred,-to-date,-or-an~~
19 ~~amount-proportionate-to-the-maximum-fees-permitted-under-this~~
20 ~~section-based-on-legal-services-provided-to-date,-whichever-is~~
21 ~~less.-The-court-may-grant-the-motion-if-counsel-shows-that~~
22 ~~failure-to-grant-the-motion-would-work-a-particular-hardship~~
23 ~~upon-counsel-~~

24 (5)(3) The compensation for representation in a
25 criminal proceeding shall not exceed the following:

26 (a)1. For misdemeanors and juveniles represented at
27 the trial level: \$1,000.

28 2. For noncapital, nonlife felonies represented at the
29 trial level: \$2,500.

30 3. For life felonies represented at the trial level:
31 \$3,000.



1 4. For capital cases represented at the trial level:
2 \$15,000 \$3,500. For purposes of this subparagraph, a "capital
3 case" is any offense for which the potential sentence is death
4 and the state has not waived seeking the death penalty.

5 5. For representation on appeal: \$2,000.

6 (b) If a death sentence is imposed and affirmed on
7 appeal to the Supreme Court, the appointed attorney shall be
8 allowed compensation, not to exceed \$1,000, for attorney's
9 fees and costs incurred in representing the defendant as to an
10 application for executive clemency, with compensation to be
11 paid out of general revenue from funds budgeted to the
12 Department of Corrections.

13 ~~(4)--By-January-1-of-each-year,--the-Article-V-Indigent~~
14 ~~Services-Advisory-Board-shall-recommend-to-the-Legislature-any~~
15 ~~adjustments-to-the-compensation-provisions-of-this-section-~~

16 (6)(5) For compensation for representation pursuant to
17 a court appointment in a proceeding under chapter 39:

18 (a) At the trial level, compensation for
19 representation for dependency proceedings shall not exceed
20 \$1,000 for the first year following the date of appointment
21 and shall not exceed \$200 each year thereafter. Compensation
22 shall be paid based upon representation of a parent
23 irrespective of the number of case numbers that may be
24 assigned or the number of children involved, including any
25 children born during the pendency of the proceeding. Any
26 appeal, except for an appeal from an adjudication of
27 dependency, shall be completed by the trial attorney and is
28 considered compensated by the flat fee for dependency
29 proceedings.

30 1. Counsel may bill the flat fee not exceeding \$1,000
31 following disposition or upon dismissal of the petition.



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1 2. Counsel may bill the annual flat fee not exceeding
2 \$200 following the first judicial review in the second year
3 following the date of appointment and each year thereafter as
4 long as the case remains under protective supervision.

5 3. If the court grants a motion to reactivate
6 protective supervision, the attorney shall receive the annual
7 flat fee not exceeding \$200 following the first judicial
8 review and up to an additional \$200 each year thereafter.

9 4. If, during the course of dependency proceedings, a
10 proceeding to terminate parental rights is initiated,
11 compensation shall be as set forth in paragraph (b). If
12 counsel handling the dependency proceeding is not authorized
13 to handle proceedings to terminate parental rights, the
14 counsel must withdraw and new counsel must be appointed.

15 (b) At the trial level, compensation for
16 representation in termination of parental rights proceedings
17 shall not exceed \$1,000 for the first year following the date
18 of appointment and shall not exceed \$200 each year thereafter.
19 Compensation shall be paid based upon representation of a
20 parent irrespective of the number of case numbers that may be
21 assigned or the number of children involved, including any
22 children born during the pendency of the proceeding. Any
23 appeal, except for an appeal from an order granting or denying
24 termination of parental rights, shall be completed by trial
25 counsel and is considered compensated by the flat fee for
26 termination of parental rights proceedings. If the individual
27 has dependency proceedings ongoing as to other children, those
28 proceedings are considered part of the termination of parental
29 rights proceedings as long as that termination of parental
30 rights proceeding is ongoing.

31 1. Counsel may bill the flat fee not exceeding \$1,000



1 30 days after rendition of the final order. Each request for
2 payment submitted to the Justice Administrative Commission
3 must include the trial counsel's certification that:

4 a. Counsel discussed grounds for appeal with the
5 parent or that counsel attempted and was unable to contact the
6 parent; and

7 b. No appeal will be filed or that a notice of appeal
8 and a motion for appointment of appellate counsel, containing
9 the signature of the parent, have been filed.

10 2. Counsel may bill the annual flat fee not exceeding
11 \$200 following the first judicial review in the second year
12 after the date of appointment and each year thereafter as long
13 as the termination of parental rights proceedings are still
14 ongoing.

15 (c) For appeals from an adjudication of dependency,
16 compensation may not exceed \$1,000.

17 1. Counsel may bill a flat fee not exceeding \$750 upon
18 filing the initial brief or the granting of a motion to
19 withdraw.

20 2. If a brief is filed, counsel may bill an additional
21 flat fee not exceeding \$250 upon rendition of the mandate.

22 (d) For an appeal from an adjudication of termination
23 of parental rights, compensation may not exceed \$2,000.

24 1. Counsel may bill a flat fee not exceeding \$1,000
25 upon filing the initial brief or the granting of a motion to
26 withdraw.

27 2. If a brief is filed, counsel may bill an additional
28 flat fee not exceeding \$1,000 upon rendition of the mandate.

29 ~~if-counsel-is-entitled-to-receive-compensation-for~~
30 ~~representation-pursuant-to-court-appointment-in-a-termination~~
31 ~~of-parental-rights-proceeding-under-chapter-39,-such~~



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~~compensation shall not exceed \$1,000 at the trial level and
\$2,500 at the appellate level.~~

(7)(b) Counsel entitled to receive compensation from
the state for representation pursuant to court appointment in
a proceeding under chapter 384, chapter 390, or chapter 392,
chapter 393, chapter 394, chapter 397, chapter 415, chapter
743, chapter 744, or chapter 984 shall receive reasonable
compensation not to exceed the limits prescribed in the
General Appropriations Act as fixed by the court making the
appointment.

(8)(6) A private attorney appointed in lieu of the
public defender or the criminal conflict and civil regional
counsel to represent an indigent defendant may not reassign or
subcontract the case to another attorney or allow another
attorney to appear at a critical stage of a case who is not on
the registry developed under s. 27.40.

~~(7)--Private court-appointed counsel representing a
parent in a dependency case that is open may submit a request
for payment to the Justice Administrative Commission at the
following intervals:~~

~~(a)--Upon entry of an order of disposition as to the
parent being represented.~~

~~(b)--Upon conclusion of a 12-month permanency review.~~

~~(c)--Following a judicial review hearing.~~

~~In no case, however, may counsel submit requests under this
subsection more than once per quarter, unless the court finds
extraordinary circumstances justifying more frequent
submission of payment requests.~~

(9)(8) Private court-appointed counsel representing an
individual in an appeal to a district court of appeal or the



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1 Supreme Court may submit a request for payment to the Justice
2 Administrative Commission at the following intervals:

3 (a) Upon the filing of an appellate brief, including,
4 but not limited to, a reply brief.

5 (b) When the opinion of the appellate court is
6 finalized.

7 ~~(10)(9)~~ Private court-appointed counsel may not bill
8 for preparation of invoices ~~whether-or-not-the-case-is-paid-on~~
9 ~~the-basis-of-an-hourly-rate-or-by-flat-fee.~~

10 ~~(10)--The-Justice-Administrative-Commission-shall~~
11 ~~develop-a-schedule-to-provide-partial-payment-of-criminal~~
12 ~~attorney-fees-for-cases-that-are-not-resolved-within-6-months-~~
13 ~~The-schedule-must-provide-that-the-aggregate-payments-shall~~
14 ~~not-exceed-limits-established-by-law--Any-partial-payment-made~~
15 ~~pursuant-to-this-subsection-shall-not-exceed-the-actual-value~~
16 ~~of-services-provided-to-date--Any-partial-payment-shall-be~~
17 ~~proportionate-to-the-value-of-services-provided-based-on~~
18 ~~payment-rates-included-in-the-contract,-not-to-exceed-any~~
19 ~~limit-provided-by-law-~~

20 (11) It is the intent of the Legislature that the flat
21 fees prescribed under this section and the General
22 Appropriations Act comprise the full and complete compensation
23 for private court-appointed counsel. It is further the intent
24 of the Legislature that the fees in this section are
25 prescribed for the purpose of providing counsel with notice of
26 the limit on the amount of compensation for representation in
27 particular proceedings.

28 (a) If court-appointed counsel moves to withdraw prior
29 to the full performance of his or her duties through the
30 completion of the case, the court shall presume that the
31 attorney is not entitled to the payment of the full flat fee



1 established under this section and the General Appropriations
2 Act.

3 (b) If court-appointed counsel is allowed to withdraw
4 from representation prior to the full performance of his or
5 her duties through the completion of the case and the court
6 appoints a subsequent attorney, the total compensation for the
7 initial and any and all subsequent attorneys may not exceed
8 the flat fee established under this section and the General
9 Appropriations Act, except as provided in subsection (12).

10
11 This subsection constitutes notice to any subsequently
12 appointed attorney that he or she will not be compensated the
13 full flat fee.

14 (12) The Legislature recognizes that on rare occasions
15 an attorney may receive a case that requires extraordinary and
16 unusual effort.

17 (a) If counsel seeks compensation that exceeds the
18 limits prescribed under this section and the General
19 Appropriations Act, he or she must file a motion with the
20 chief judge for an order approving payment of attorney's fees
21 in excess of these limits.

22 1. Prior to filing the motion, the counsel shall
23 deliver a copy of the intended billing, together with
24 supporting affidavits and all other necessary documentation,
25 to the Justice Administrative Commission.

26 2. The Justice Administrative Commission shall review
27 the billings, affidavit, and documentation for completeness
28 and compliance with contractual and statutory requirements. If
29 the Justice Administrative Commission objects to any portion
30 of the proposed billing, the objection and reasons therefor
31 shall be communicated in writing to the private



1 court-appointed counsel. The counsel may thereafter file his
2 or her motion, which must specify whether the commission
3 objects to any portion of the billing or the sufficiency of
4 documentation, and shall attach the commission's letter
5 stating its objection.

6 (b) Following receipt of the motion to exceed the fee
7 limits, the chief judge or a designee shall hold an
8 evidentiary hearing.

9 1. At the hearing, the attorney seeking compensation
10 must prove by competent and substantial evidence that the case
11 required extraordinary and unusual efforts. The chief judge or
12 designee shall consider criteria such as the number of
13 witnesses, the complexity of the factual and legal issues, and
14 the length of trial. The fact that a trial was conducted in a
15 case does not, by itself, constitute competent substantial
16 evidence of an extraordinary and unusual effort. In a criminal
17 case, relief under this section may not be granted if the
18 number of work hours does not exceed 75 or the number of the
19 state's witnesses deposed does not exceed 20.

20 2. The chief judge or designee shall enter a written
21 order detailing his or her findings and identifying the
22 extraordinary nature of the time and efforts of the attorney
23 in the case which warrant exceeding the flat fee established
24 by this section and the General Appropriations Act.

25 (c) A copy of the motion and attachments shall be
26 served on the Justice Administrative Commission at least 5
27 business days prior to the date of a hearing. The Justice
28 Administrative Commission shall have standing to appear before
29 the court, including at the hearing under paragraph (b), to
30 contest any motion for an order approving payment of
31 attorney's fees, costs, or related expenses and may



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1 participate in a hearing on the motion by use of telephonic or
2 other communication equipment unless ordered otherwise. The
3 Justice Administrative Commission may contract with other
4 public or private entities or individuals to appear before the
5 court for the purpose of contesting any motion for an order
6 approving payment of attorney's fees, costs, or related
7 expenses. The fact that the Justice Administrative Commission
8 has not objected to any portion of the billing or to the
9 sufficiency of the documentation is not binding on the court.

10 (d) If the chief judge or designee finds that counsel
11 has proved by competent and substantial evidence that the case
12 required extraordinary and unusual efforts, the chief judge or
13 designee shall order the compensation to be paid to the
14 attorney at a percentage above the flat fee rate, depending on
15 the extent of the unusual and extraordinary effort required.
16 The percentage shall be only the rate necessary to ensure that
17 the fees paid are not confiscatory under common law. The
18 percentage may not exceed 200 percent of the established flat
19 fee, absent a specific finding that 200 percent of the flat
20 fee in the case would be confiscatory. If the chief judge or
21 designee determines that 200 percent of the flat fee would be
22 confiscatory, he or she shall order the amount of compensation
23 using an hourly rate not to exceed \$75 per hour for a
24 noncapital case and \$100 per hour for a capital case. However,
25 the compensation calculated by using the hourly rate shall be
26 only that amount necessary to ensure that the total fees paid
27 are not confiscatory.

28 (e) Any order granting relief under this subsection
29 must be attached to the final request for a payment submitted
30 to the Justice Administrative Commission.

31 (f) The Justice Administrative Commission shall



1 provide to the Office of the State Courts Administrator data
2 concerning the number of cases approved for compensation in
3 excess of the limitation and the amount of these awards by
4 circuit and by judge. The Office of the State Courts
5 Administrator shall report the data quarterly to the President
6 of the Senate, the Speaker of the House of Representatives,
7 the Chief Justice of the Supreme Court, and the chief judge of
8 each circuit.

9 Section 12. Effective July 1, 2007, section 27.54,
10 Florida Statutes, is amended to read:

11 27.54 Limitation on payment of expenditures ~~for public~~
12 ~~defender's office~~ other than by the state.--

13 (1) All payments for the salary of the public defender
14 and the criminal conflict and civil regional counsel and for
15 the necessary expenses of office, including salaries of
16 assistants and staff, shall be considered as being for a valid
17 public purpose. Travel expenses shall be paid in accordance
18 with the provisions of s. 112.061.

19 (2) A county or municipality may contract with, or
20 appropriate or contribute funds to, the operation of the
21 offices of the various public defenders and regional counsel
22 as provided in this subsection. A public defender or regional
23 counsel defending violations of special laws or county or
24 municipal ordinances punishable by incarceration and not
25 ancillary to a state charge shall contract with counties and
26 municipalities to recover the full cost of services rendered
27 on an hourly basis or reimburse the state for the full cost of
28 assigning one or more full-time equivalent attorney positions
29 to work on behalf of the county or municipality.

30 Notwithstanding any other provision of law, in the case of a
31 county with a population of less than 75,000, the public



1 defender or regional counsel shall contract for full
2 reimbursement, or for reimbursement as the parties otherwise
3 agree. In local ordinance violation cases, the county or
4 municipality shall pay for due process services that are
5 approved by the court, including deposition costs, deposition
6 transcript costs, investigative costs, witness fees, expert
7 witness costs, and interpreter costs. The person charged with
8 the violation shall be assessed a fee for the services of a
9 public defender or regional counsel and other costs and fees
10 paid by the county or municipality, which assessed fee may be
11 reduced to a lien, in all instances in which the person enters
12 a plea of guilty or no contest or is found to be in violation
13 or guilty of any count or lesser included offense of the
14 charge or companion case charges, regardless of adjudication.
15 The court shall determine the amount of the obligation. The
16 county or municipality may recover assessed fees through
17 collections court or as otherwise permitted by law, and any
18 fees recovered pursuant to this section shall be forwarded to
19 the applicable county or municipality as reimbursement.

20 (a) A contract for reimbursement on an hourly basis
21 shall require a county or municipality to reimburse the public
22 defender or regional counsel for services rendered at a rate
23 of \$50 per hour. If an hourly rate is specified in the General
24 Appropriations Act, that rate shall control.

25 (b) A contract for assigning one or more full-time
26 equivalent attorney positions to perform work on behalf of the
27 county or municipality shall assign one or more full-time
28 equivalent positions based on estimates by the public defender
29 or regional counsel of the number of hours required to handle
30 the projected workload. The full cost of each full-time
31 equivalent attorney position on an annual basis shall be \$50,



1 or the amount specified in the General Appropriations Act,
2 multiplied by the legislative budget request standard for
3 available work hours for one full-time equivalent attorney
4 position, or, in the absence of that standard, 1,854 hours.
5 The contract may provide for funding full-time equivalent
6 positions in one-quarter increments.

7 (c) Any payments received pursuant to this subsection
8 shall be deposited into the Grants and Donations Trust Fund
9 within the Justice Administrative Commission for appropriation
10 by the Legislature.

11 (3) No public defender, ~~or~~ assistant public defender,
12 regional counsel, or assistant regional counsel shall receive
13 from any county or municipality any supplemental salary,
14 except as provided in this section.

15 (4) Unless expressly authorized by law or in the
16 General Appropriations Act, public defenders and regional
17 counsel are prohibited from spending state-appropriated funds
18 on county funding obligations under s. 14, Art. V of the State
19 Constitution beginning January 1, 2005. This includes
20 expenditures on communications services and facilities as
21 defined in s. 29.008. This does not prohibit a public defender
22 from spending funds for these purposes in exceptional
23 circumstances when necessary to maintain operational
24 continuity in the form of a short-term advance pending
25 reimbursement from the county. If a public defender or
26 regional counsel provides short-term advance funding for a
27 county responsibility as authorized by this subsection, the
28 public defender or regional counsel shall request full
29 reimbursement from the board of county commissioners prior to
30 making the expenditure or at the next meeting of the board of
31 county commissioners after the expenditure is made. The total



1 of all short-term advances authorized by this subsection shall
2 not exceed 2 percent of the public defender's or regional
3 counsel's approved operating budget in any given year. No
4 short-term advances authorized by this subsection shall be
5 permitted until all reimbursements arising from advance
6 funding in the prior state fiscal year have been received by
7 the public defender or regional counsel. All reimbursement
8 payments received by the public defender or regional counsel
9 shall be deposited into the General Revenue Fund.

10 Notwithstanding the provisions of this subsection, the public
11 defender or regional counsel may expend funds for the purchase
12 of computer systems, including associated hardware and
13 software, and for personnel related to this function.

14 Section 13. Effective October 1, 2007, section 27.59,
15 Florida Statutes, is amended to read:

16 27.59 Access to prisoners.--The public defenders, and
17 assistant public defenders, criminal conflict and civil
18 regional counsel, and assistant regional counsel shall be
19 empowered to inquire of all persons who are incarcerated in
20 lieu of bond and to tender them advice and counsel at any
21 time, but the provisions of this section shall not apply with
22 respect to persons who have engaged private counsel.

23 Section 14. Effective October 1, 2007, section 28.24,
24 Florida Statutes, is amended to read:

25 28.24 Service charges by clerk of the circuit
26 court.--The clerk of the circuit court shall charge for
27 services rendered by the clerk's office in recording documents
28 and instruments and in performing the duties enumerated in
29 amounts not to exceed those specified in this section.

30 Notwithstanding any other provision of this section, the clerk
31 of the circuit court shall provide without charge to the state



attorney, public defender, guardian ad litem, public guardian,
attorney ad litem, criminal conflict and civil regional
counsel, and private court-appointed counsel paid by the
state, and to the authorized staff acting on behalf of each,
access to and a copy of any public record, if the requesting
party is entitled by law to view the exempt or confidential
record, as maintained by and in the custody of the clerk of
the circuit court as provided in general law and the Florida
Rules of Judicial Administration. The clerk of the circuit
court may provide the requested public record in an electronic
format in lieu of a paper format when capable of being
accessed by the requesting entity.

Charges

(1) For examining, comparing, correcting, verifying,
and certifying transcripts of record in appellate proceedings,
prepared by attorney for appellant or someone else other than
clerk per page.....4.50

(2) For preparing, numbering, and indexing an original
record of appellate proceedings, per instrument.....3.00

(3) For certifying copies of any instrument in the
public records.....1.50

(4) For verifying any instrument presented for
certification prepared by someone other than clerk, per page
.....3.00

(5) (a) For making copies by photographic process of
any instrument in the public records consisting of pages of
not more than 14 inches by 8 1/2 inches, per page.....1.00

(b) For making copies by photographic process of any
instrument in the public records of more than 14 inches by 8



1	1/2 inches, per page.....	5.00
2	(6) For making microfilm copies of any public records:	
3	(a) 16 mm 100' microfilm roll.....	37.50
4	(b) 35 mm 100' microfilm roll.....	52.50
5	(c) Microfiche, per fiche.....	3.00
6	(7) For copying any instrument in the public records	
7	by other than photographic process, per page.....	6.00
8	(8) For writing any paper other than herein	
9	specifically mentioned, same as for copying, including signing	
10	and sealing.....	6.00
11	(9) For indexing each entry not recorded.....	1.00
12	(10) For receiving money into the registry of court:	
13	(a) 1. First \$500, percent.....	3
14	2. Each subsequent \$100, percent.....	1.5
15	(b) Eminent domain actions, per deposit.....	\$150.00
16	(11) For examining, certifying, and recording plats	
17	and for recording condominium exhibits larger than 14 inches	
18	by 8 1/2 inches:	
19	(a) First page.....	30.00
20	(b) Each additional page.....	15.00
21	(12) For recording, indexing, and filing any	
22	instrument not more than 14 inches by 8 1/2 inches, including	
23	required notice to property appraiser where applicable:	
24	(a) First page or fraction thereof.....	5.00
25	(b) Each additional page or fraction thereof.....	4.00
26	(c) For indexing instruments recorded in the official	
27	records which contain more than four names, per additional	
28	name.....	1.00
29	(d) An additional service charge shall be paid to the	
30	clerk of the circuit court to be deposited in the Public	
31	Records Modernization Trust Fund for each instrument listed in	



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1 s. 28.222, except judgments received from the courts and
2 notices of lis pendens, recorded in the official records:

3 1. First page.....1.00

4 2. Each additional page.....0.50

5
6 Said fund shall be held in trust by the clerk and used
7 exclusively for equipment and maintenance of equipment,
8 personnel training, and technical assistance in modernizing
9 the public records system of the office. In a county where the
10 duty of maintaining official records exists in an office other
11 than the office of the clerk of the circuit court, the clerk
12 of the circuit court is entitled to 25 percent of the moneys
13 deposited into the trust fund for equipment, maintenance of
14 equipment, training, and technical assistance in modernizing
15 the system for storing records in the office of the clerk of
16 the circuit court. The fund may not be used for the payment of
17 travel expenses, membership dues, bank charges,
18 staff-recruitment costs, salaries or benefits of employees,
19 construction costs, general operating expenses, or other costs
20 not directly related to obtaining and maintaining equipment
21 for public records systems or for the purchase of furniture or
22 office supplies and equipment not related to the storage of
23 records. On or before December 1, 1995, and on or before
24 December 1 of each year immediately preceding each year during
25 which the trust fund is scheduled for legislative review under
26 s. 19(f)(2), Art. III of the State Constitution, each clerk of
27 the circuit court shall file a report on the Public Records
28 Modernization Trust Fund with the President of the Senate and
29 the Speaker of the House of Representatives. The report must
30 itemize each expenditure made from the trust fund since the
31 last report was filed; each obligation payable from the trust



1 fund on that date; and the percentage of funds expended for
2 each of the following: equipment, maintenance of equipment,
3 personnel training, and technical assistance. The report must
4 indicate the nature of the system each clerk uses to store,
5 maintain, and retrieve public records and the degree to which
6 the system has been upgraded since the creation of the trust
7 fund.

8 (e) An additional service charge of \$4 per page shall
9 be paid to the clerk of the circuit court for each instrument
10 listed in s. 28.222, except judgments received from the courts
11 and notices of lis pendens, recorded in the official records.
12 From the additional \$4 service charge collected:

13 1. If the counties maintain legal responsibility for
14 the costs of the court-related technology needs as defined in
15 s. 29.008(1)(f)2. and (h), 10 cents shall be distributed to
16 the Florida Association of Court Clerks and Comptroller, Inc.,
17 for the cost of development, implementation, operation, and
18 maintenance of the clerks' Comprehensive Case Information
19 System, in which system all clerks shall participate on or
20 before January 1, 2006; \$1.90 shall be retained by the clerk
21 to be deposited in the Public Records Modernization Trust Fund
22 and used exclusively for funding court-related technology
23 needs of the clerk as defined in s. 29.008(1)(f)2. and (h);
24 and \$2 shall be distributed to the board of county
25 commissioners to be used exclusively to fund court-related
26 technology, and court technology needs as defined in s.
27 29.008(1)(f)2. and (h) for the state trial courts, state
28 attorney, and public defender, and criminal conflict and civil
29 regional counsel in that county. If the counties maintain
30 legal responsibility for the costs of the court-related
31 technology needs as defined in s. 29.008(1)(f)2. and (h),



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1 notwithstanding any other provision of law, the county is not
2 required to provide additional funding beyond that provided
3 herein for the court-related technology needs of the clerk as
4 defined in s. 29.008(1)(f)2. and (h). All court records and
5 official records are the property of the State of Florida,
6 including any records generated as part of the Comprehensive
7 Case Information System funded pursuant to this paragraph and
8 the clerk of court is designated as the custodian of such
9 records, except in a county where the duty of maintaining
10 official records exists in a county office other than the
11 clerk of court or comptroller, such county office is
12 designated the custodian of all official records, and the
13 clerk of court is designated the custodian of all court
14 records. The clerk of court or any entity acting on behalf of
15 the clerk of court, including an association, shall not charge
16 a fee to any agency as defined in s. 119.011, the Legislature,
17 or the State Court System for copies of records generated by
18 the Comprehensive Case Information System or held by the clerk
19 of court or any entity acting on behalf of the clerk of court,
20 including an association.

21 2. If the state becomes legally responsible for the
22 costs of court-related technology needs as defined in s.
23 29.008(1)(f)2. and (h), whether by operation of general law or
24 by court order, \$4 shall be remitted to the Department of
25 Revenue for deposit into the General Revenue Fund.

26 (13) Oath, administering, attesting, and sealing, not
27 otherwise provided for herein.....3.00

28 (14) For validating certificates, any authorized
29 bonds, each.....3.00

30 (15) For preparing affidavit of domicile.....5.00

31 (16) For exemplified certificates, including signing



1	and sealing.....	6.00
2	(17) For authenticated certificates, including signing	
3	and sealing.....	6.00
4	(18)(a) For issuing and filing a subpoena for a	
5	witness, not otherwise provided for herein (includes writing,	
6	preparing, signing, and sealing).....	6.00
7	(b) For signing and sealing only.....	1.50
8	(19) For approving bond.....	7.50
9	(20) For searching of records, for each year's search	
10	1.50
11	(21) For processing an application for a tax deed sale	
12	(includes application, sale, issuance, and preparation of tax	
13	deed, and disbursement of proceeds of sale), other than excess	
14	proceeds.....	60.00
15	(22) For disbursement of excess proceeds of tax deed	
16	sale, first \$100 or fraction thereof.....	10.00
17	(23) Upon receipt of an application for a marriage	
18	license, for preparing and administering of oath; issuing,	
19	sealing, and recording of the marriage license; and providing	
20	a certified copy.....	30.00
21	(24) For solemnizing matrimony.....	30.00
22	(25) For sealing any court file or expungement of any	
23	record.....	37.50
24	(26)(a) For receiving and disbursing all restitution	
25	payments, per payment.....	3.00
26	(b) For receiving and disbursing all partial payments,	
27	other than restitution payments, for which an administrative	
28	processing service charge is not imposed pursuant to s.	
29	28.246, per month.....	5.00
30	(c) For setting up a payment plan, a one-time	
31	administrative processing charge in lieu of a per month charge	



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1 under paragraph (b).....25.00

2 (27) Postal charges incurred by the clerk of the
3 circuit court in any mailing by certified or registered mail
4 shall be paid by the party at whose instance the mailing is
5 made.

6 (28) For furnishing an electronic copy of information
7 contained in a computer database: a fee as provided for in
8 chapter 119.

9 Section 15. Effective October 1, 2007, section 28.345,
10 Florida Statutes, is amended to read:

11 28.345 Exemption from court-related fees and
12 charges.--Notwithstanding any other provision of this chapter
13 or law to the contrary, judges and those court staff acting on
14 behalf of judges, state attorneys, guardians ad litem, public
15 guardians, attorneys ad litem, court-appointed private
16 counsel, criminal conflict and civil regional counsel, and
17 public defenders, acting in their official capacity, and state
18 agencies, are exempt from all court-related fees and charges
19 assessed by the clerks of the circuit courts.

20 Section 16. Effective July 1, 2007, section 29.001,
21 Florida Statutes, is amended to read:

22 29.001 State courts system elements and definitions.--

23 (1) For the purpose of implementing s. 14, Art. V of
24 the State Constitution, the state courts system is defined to
25 include the enumerated elements of the Supreme Court, district
26 courts of appeal, circuit courts, county courts, and certain
27 supports thereto. The offices of public defenders and state
28 attorneys are defined to include the enumerated elements of
29 the 20 state attorneys' offices and the enumerated elements of
30 the 20 public defenders' offices and five offices of criminal
31 conflict and civil regional counsel. Court-appointed counsel



1 are defined to include the enumerated elements for counsel
2 appointed to ensure due process in criminal and civil
3 proceedings in accordance with state and federal
4 constitutional guarantees. Funding for the state courts
5 system, the state attorneys' offices, the public defenders'
6 offices, the offices of criminal conflict and civil regional
7 counsel, and other court-appointed counsel shall be provided
8 from state revenues appropriated by general law.

9 (2) Although a program or function currently may be
10 funded by the state or prescribed or established in general
11 law, this does not designate the program or function as an
12 element of the state courts system, state attorneys' offices,
13 public defenders' offices, or the offices of the circuit and
14 county court clerks performing court-related functions as
15 described in s. 14, Art. V of the State Constitution.

16 Section 17. Effective July 1, 2007, section 29.006,
17 Florida Statutes, is amended to read:

18 29.006 ~~Public-defenders-and~~ Indigent defense
19 costs.--For purposes of implementing s. 14, Art. V of the
20 State Constitution, the elements of the public defenders'
21 offices and criminal conflict and civil regional counsel
22 offices to be provided from state revenues appropriated by
23 general law are as follows:

24 (1) The public defender of each judicial circuit and
25 assistant public defenders and other staff as determined by
26 general law. The regional counsel of each judicial district,
27 the assistant regional counsel, and other staff as determined
28 by general law.

29 (2) Reasonable court reporting and transcription
30 services necessary to meet constitutional or statutory
31 requirements, including the cost of transcribing and copying



1 depositions of witnesses and the cost of foreign language and
2 sign-language interpreters and translators.

3 (3) Witnesses, including expert witnesses, summoned to
4 appear for an investigation, preliminary hearing, or trial in
5 a case when the witnesses are summoned on behalf of an
6 indigent defendant, and any other expert witnesses required in
7 a court hearing by law or whomever the public defender or
8 regional counsel deems necessary for the performance of his or
9 her duties.

10 (4) Mental health professionals appointed pursuant to
11 s. 394.473 and required in a court hearing involving an
12 indigent, and mental health professionals appointed pursuant
13 to s. 916.115(2) and required in a court hearing involving an
14 indigent.

15 (5) Reasonable transportation services in the
16 performance of constitutional and statutory responsibilities.
17 Motor vehicles owned by counties and provided exclusively to
18 public defenders as of July 1, 2003, and any additional
19 vehicles owned by the counties and provided exclusively to
20 public defenders during fiscal year 2003-2004 shall be
21 transferred by title to the state effective July 1, 2004.

22 (6) Travel expenses reimbursable under s. 112.061
23 reasonably necessary in the performance of constitutional and
24 statutory responsibilities.

25 (7) Reasonable library and electronic legal research
26 services, other than a public law library.

27 (8) Reasonable pretrial consultation fees and costs.

28 Section 18. Effective October 1, 2007, section 29.007,
29 Florida Statutes, is amended to read:

30 29.007 Court-appointed counsel.--For purposes of
31 implementing s. 14, Art. V of the State Constitution, the



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1 elements of court-appointed counsel to be provided from state
2 revenues appropriated by general law are as follows:

3 (1) Private attorneys appointed by the court to handle
4 cases where the defendant is indigent and cannot be
5 represented by the public defender or the office of criminal
6 conflict and civil regional counsel under ss.-27-42-and-27-53.

7 (2) When the office of criminal conflict and civil
8 regional counsel has a conflict of interest, private attorneys
9 appointed by the court to represent indigents or other classes
10 of litigants in civil proceedings requiring court-appointed
11 counsel in accordance with state and federal constitutional
12 guarantees and federal and state statutes.

13 (3) Reasonable court reporting and transcription
14 services necessary to meet constitutional or statutory
15 requirements, including the cost of transcribing and copying
16 depositions of witnesses and the cost of foreign language and
17 sign-language interpreters and translators.

18 (4) Witnesses, including expert witnesses, summoned to
19 appear for an investigation, preliminary hearing, or trial in
20 a case when the witnesses are summoned on behalf of an
21 indigent, and any other expert witnesses approved by the
22 court.

23 (5) Mental health professionals appointed pursuant to
24 s. 394.473 and required in a court hearing involving an
25 indigent, mental health professionals appointed pursuant to s.
26 916.115(2) and required in a court hearing involving an
27 indigent, and any other mental health professionals required
28 by law for the full adjudication of any civil case involving
29 an indigent person.

30 (6) Reasonable pretrial consultation fees and costs.

31 (7) Travel expenses reimbursable under s. 112.061



1 reasonably necessary in the performance of constitutional and
2 statutory responsibilities.

3
4 Subsections (3), (4), (5), (6), and (7) apply when
5 court-appointed counsel is appointed; when the court
6 determines that the litigant is indigent for costs; or when
7 the litigant is acting pro se and the court determines that
8 the litigant is indigent for costs at the trial or appellate
9 level. This section applies in any situation in which the
10 court appoints counsel to protect a litigant's due process
11 rights. The Justice Administrative Commission shall approve
12 uniform contract forms for use in processing payments for due
13 process services under this section. In each case in which a
14 private attorney represents a person determined by the court
15 to be indigent for costs, the attorney shall execute the
16 commission's contract for private attorneys representing
17 persons determined to be indigent for costs.

18 Section 19. Effective July 1, 2007, subsections (1)
19 and (2) of section 29.008, Florida Statutes, are amended to
20 read:

21 29.008 County funding of court-related functions.--

22 (1) Counties are required by s. 14, Art. V of the
23 State Constitution to fund the cost of communications
24 services, existing radio systems, existing multiagency
25 criminal justice information systems, and the cost of
26 construction or lease, maintenance, utilities, and security of
27 facilities for the circuit and county courts, public
28 defenders' offices, state attorneys' offices, guardian ad
29 litem offices, and the offices of the clerks of the circuit
30 and county courts performing court-related functions. For
31 purposes of this section, the term "circuit and county courts"



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1 includes ~~shall include~~ the offices and staffing of the
2 guardian ad litem programs, and the term "public defenders'
3 offices" includes the offices of criminal conflict and civil
4 regional counsel. The county designated under s. 35.05(1) as
5 the headquarters for each appellate district shall fund these
6 costs for the appellate division of the public defender's
7 office in that county. For purposes of implementing these
8 requirements, the term:

9 (a) "Facility" means reasonable and necessary
10 buildings and office space and appurtenant equipment and
11 furnishings, structures, real estate, easements, and related
12 interests in real estate, including, but not limited to, those
13 for the purpose of housing legal materials for use by the
14 general public and personnel, equipment, or functions of the
15 circuit or county courts, public defenders' offices, state
16 attorneys' offices, and court-related functions of the office
17 of the clerks of the circuit and county courts and all
18 storage. The term "facility" includes all wiring necessary for
19 court reporting services. The term also includes access to
20 parking for such facilities in connection with such
21 court-related functions that may be available free or from a
22 private provider or a local government for a fee. The office
23 space provided by a county may not be less than the standards
24 for space allotment adopted by the Department of Management
25 Services, except this requirement applies only to facilities
26 that are leased, or on which construction commences, after
27 June 30, 2003. County funding must include physical
28 modifications and improvements to all facilities as are
29 required for compliance with the Americans with Disabilities
30 Act. Upon mutual agreement of a county and the affected entity
31 in this paragraph, the office space provided by the county may



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1 vary from the standards for space allotment adopted by the
2 Department of Management Services.

3 1. As of July 1, 2005, equipment and furnishings shall
4 be limited to that appropriate and customary for courtrooms,
5 hearing rooms, jury facilities, and other public areas in
6 courthouses and any other facility occupied by the courts,
7 state attorneys, and public defenders, guardians ad litem, and
8 criminal conflict and civil regional counsel. Court reporting
9 equipment in these areas or facilities is not a responsibility
10 of the county.

11 2. Equipment and furnishings under this paragraph in
12 existence and owned by counties on July 1, 2005, except for
13 that in the possession of the clerks, for areas other than
14 courtrooms, hearing rooms, jury facilities, and other public
15 areas in courthouses and any other facility occupied by the
16 courts, state attorneys, and public defenders, shall be
17 transferred to the state at no charge. This provision does not
18 apply to any communication services as defined in paragraph
19 (f).

20 (b) "Construction or lease" includes, but is not
21 limited to, all reasonable and necessary costs of the
22 acquisition or lease of facilities for all judicial officers,
23 staff, jurors, volunteers of a tenant agency, and the public
24 for the circuit and county courts, the public defenders'
25 offices, state attorneys' offices, and for performing the
26 court-related functions of the offices of the clerks of the
27 circuit and county courts. This includes expenses related to
28 financing such facilities and the existing and future cost and
29 bonded indebtedness associated with placing the facilities in
30 use.

31 (c) "Maintenance" includes, but is not limited to, all



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1 reasonable and necessary costs of custodial and groundskeeping
2 services and renovation and reconstruction as needed to
3 accommodate functions for the circuit and county courts, the
4 public defenders' offices, and state attorneys' offices and
5 for performing the court-related functions of the offices of
6 the clerks of the circuit and county court and for maintaining
7 the facilities in a condition appropriate and safe for the use
8 intended.

9 (d) "Utilities" means all electricity services for
10 light, heat, and power; natural or manufactured gas services
11 for light, heat, and power; water and wastewater services and
12 systems, stormwater or runoff services and systems, sewer
13 services and systems, all costs or fees associated with these
14 services and systems, and any costs or fees associated with
15 the mitigation of environmental impacts directly related to
16 the facility.

17 (e) "Security" includes but is not limited to, all
18 reasonable and necessary costs of services of law enforcement
19 officers or licensed security guards and all electronic,
20 cellular, or digital monitoring and screening devices
21 necessary to ensure the safety and security of all persons
22 visiting or working in a facility; to provide for security of
23 the facility, including protection of property owned by the
24 county or the state; and for security of prisoners brought to
25 any facility. This includes bailiffs while providing courtroom
26 and other security for each judge and other quasi-judicial
27 officers.

28 (f) "Communications services" are defined as any
29 reasonable and necessary transmission, emission, and reception
30 of signs, signals, writings, images, and sounds of
31 intelligence of any nature by wire, radio, optical, audio



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1 equipment, or other electromagnetic systems and includes all
2 facilities and equipment owned, leased, or used by judges,
3 clerks, public defenders, state attorneys, guardians ad litem,
4 criminal conflict and civil regional counsel, and all staff of
5 the state courts system, state attorneys' offices, public
6 defenders' offices, and clerks of the circuit and county
7 courts performing court-related functions. Such system or
8 services shall include, but not be limited to:

9 1. Telephone system infrastructure, including computer
10 lines, telephone switching equipment, and maintenance, and
11 facsimile equipment, wireless communications, cellular
12 telephones, pagers, and video teleconferencing equipment and
13 line charges. Each county shall continue to provide access to
14 a local carrier for local and long distance service and shall
15 pay toll charges for local and long distance service.

16 2. All computer networks, systems and equipment,
17 including computer hardware and software, modems, printers,
18 wiring, network connections, maintenance, support staff or
19 services including any county-funded support staff located in
20 the offices of the circuit court, county courts, state
21 attorneys, and public defenders, guardians ad litem, and
22 criminal conflict and civil regional counsel; training,
23 supplies, and line charges necessary for an integrated
24 computer system to support the operations and management of
25 the state courts system, the offices of the public defenders,
26 the offices of the state attorneys, the guardian ad litem
27 offices, the offices of criminal conflict and civil regional
28 counsel, and the offices of the clerks of the circuit and
29 county courts; and the capability to connect those entities
30 and reporting data to the state as required for the
31 transmission of revenue, performance accountability, case



1 management, data collection, budgeting, and auditing purposes.
2 The integrated computer system shall be operational by July 1,
3 2006, and, at a minimum, permit the exchange of financial,
4 performance accountability, case management, case disposition,
5 and other data across multiple state and county information
6 systems involving multiple users at both the state level and
7 within each judicial circuit and be able to electronically
8 exchange judicial case background data, sentencing
9 scoresheets, and video evidence information stored in
10 integrated case management systems over secure networks. Once
11 the integrated system becomes operational, counties may reject
12 requests to purchase communication services included in this
13 subparagraph not in compliance with standards, protocols, or
14 processes adopted by the board established pursuant to s.
15 29.0086.

16 3. Courier messenger and subpoena services.

17 4. Auxiliary aids and services for qualified
18 individuals with a disability which are necessary to ensure
19 access to the courts. Such auxiliary aids and services
20 include, but are not limited to, sign language interpretation
21 services required under the federal Americans with
22 Disabilities Act other than services required to satisfy
23 due-process requirements and identified as a state funding
24 responsibility pursuant to ss. 29.004, 29.005, 29.006, and
25 29.007, real-time transcription services for individuals who
26 are hearing impaired, and assistive listening devices and the
27 equipment necessary to implement such accommodations.

28 (g) "Existing radio systems" includes, but is not
29 limited to, law enforcement radio systems that are used by the
30 circuit and county courts, the offices of the public
31 defenders, the offices of the state attorneys, and for



1 court-related functions of the offices of the clerks of the
2 circuit and county courts. This includes radio systems that
3 were operational or under contract at the time Revision No. 7,
4 1998, to Art. V of the State Constitution was adopted and any
5 enhancements made thereafter, the maintenance of those
6 systems, and the personnel and supplies necessary for
7 operation.

8 (h) "Existing multiagency criminal justice information
9 systems" includes, but is not limited to, those components of
10 the multiagency criminal justice information system as defined
11 in s. 943.045, supporting the offices of the circuit or county
12 courts, the public defenders' offices, the state attorneys'
13 offices, or those portions of the offices of the clerks of the
14 circuit and county courts performing court-related functions
15 that are used to carry out the court-related activities of
16 those entities. This includes upgrades and maintenance of the
17 current equipment, maintenance and upgrades of supporting
18 technology infrastructure and associated staff, and services
19 and expenses to assure continued information sharing and
20 reporting of information to the state. The counties shall also
21 provide additional information technology services, hardware,
22 and software as needed for new judges and staff of the state
23 courts system, state attorneys' offices, public defenders'
24 offices, guardian ad litem offices, and the offices of the
25 clerks of the circuit and county courts performing
26 court-related functions.

27 (2) Counties shall pay reasonable and necessary
28 salaries, costs, and expenses of the state courts system,
29 including associated staff and expenses, to meet local
30 requirements.

31 (a) Local requirements are those specialized programs,



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1 nonjudicial staff, and other expenses associated with
2 specialized court programs, specialized prosecution needs,
3 specialized defense needs, or resources required of a local
4 jurisdiction as a result of special factors or circumstances.

5 Local requirements exist:

6 1. When imposed pursuant to an express statutory
7 directive, based on such factors as provided in paragraph (b);
8 or

9 2. When:

10 a. The county has enacted an ordinance, adopted a
11 local program, or funded activities with a financial or
12 operational impact on the circuit or a county within the
13 circuit; or

14 b. Circumstances in a given circuit or county result
15 in or necessitate implementation of specialized programs, the
16 provision of nonjudicial staff and expenses to specialized
17 court programs, special prosecution needs, specialized defense
18 needs, or the commitment of resources to the court's
19 jurisdiction.

20 (b) Factors and circumstances resulting in the
21 establishment of a local requirement include, but are not
22 limited to:

23 1. Geographic factors;
24 2. Demographic factors;
25 3. Labor market forces;
26 4. The number and location of court facilities; or
27 5. The volume, severity, complexity, or mix of court
28 cases.

29 (c) Local requirements under subparagraph (a)2. must
30 be determined by the following method:

31 1. The chief judge of the circuit, in conjunction with



1 the state attorney, and the public defender, and the criminal
2 conflict and civil regional counsel only on matters that
3 impact their offices, shall identify all local requirements
4 within the circuit or within each county in the circuit and
5 shall identify the reasonable and necessary salaries, costs,
6 and expenses to meet these local requirements.

7 2. On or before June 1 of each year, the chief judge
8 shall submit to the board of county commissioners a tentative
9 budget request for local requirements for the ensuing fiscal
10 year. The tentative budget must certify a listing of all local
11 requirements and the reasonable and necessary salaries, costs,
12 and expenses for each local requirement. The board of county
13 commissioners may, by resolution, require the certification to
14 be submitted earlier.

15 3. The board of county commissioners shall thereafter
16 treat the certification in accordance with the county's
17 budgetary procedures. A board of county commissioners may:

18 a. Determine whether to provide funding, and to what
19 extent it will provide funding, for salaries, costs, and
20 expenses under this section;

21 b. Require a county finance officer to conduct a
22 preaudit review of any county funds provided under this
23 section prior to disbursement;

24 c. Require review or audit of funds expended under
25 this section by the appropriate county office; and

26 d. Provide additional financial support for the courts
27 system, state attorneys, ~~or~~ public defenders, or criminal
28 conflict and civil regional counsel.

29 (d) Counties may satisfy these requirements by
30 entering into interlocal agreements for the collective funding
31 of these reasonable and necessary salaries, costs, and



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1 expenses.

2 Section 20. Effective July 1, 2007, subsections (1),
3 (2), (3), and (5) of section 29.015, Florida Statutes, are
4 amended to read:

5 29.015 Contingency fund; limitation of authority to
6 transfer funds in contracted due process services
7 appropriation categories.--

8 (1) An appropriation may be provided in the General
9 Appropriations Act in the Justice Administrative Commission to
10 serve as a contingency fund for the purpose of alleviating
11 deficits in contracted due process services appropriation
12 categories, including private court-appointed counsel
13 appropriation categories, that may occur from time to time due
14 to extraordinary cases events that lead to unexpected
15 expenditures.

16 (2) In the event that a state attorney, ~~or~~ public
17 defender, or criminal conflict and civil regional counsel
18 incurs a deficit in a contracted due process services
19 appropriation category or conflict counsel category, the
20 following steps shall be taken in order:

21 (a) The state attorney, ~~or~~ public defender, or
22 regional counsel shall first attempt to identify surplus funds
23 from other appropriation categories within his or her office
24 and submit a budget amendment pursuant to chapter 216 to
25 transfer funds from within the office.

26 (b) In the event that the state attorney, ~~or~~ public
27 defender, or regional counsel is unable to identify surplus
28 funds from within his or her office, he or she shall certify
29 this to the Justice Administrative Commission along with a
30 complete explanation of the circumstances which led to the
31 deficit and steps the office has taken to reduce or alleviate



1 the deficit. The Justice Administrative Commission shall
2 inquire as to whether any other office has surplus funds in
3 its contracted due process services appropriation categories
4 which can be transferred to the office that is experiencing
5 the deficit. If other offices indicate that surplus funds are
6 available within the same budget entity appropriation
7 category, the Justice Administrative Commission shall transfer
8 the amount needed to fund the deficit and notify the Governor
9 and the chair and vice chair of the Legislative Budget
10 Commission 14 days prior to a transfer pursuant to the notice,
11 review, and objection provisions of s. 216.177. If funds
12 appropriated for this purpose are available in a different
13 budget entity, the Justice Administrative Commission shall
14 request a budget amendment pursuant to chapter 216.

15 (c) If no office indicates that surplus funds are
16 available to alleviate the deficit, the Justice Administrative
17 Commission may request a budget amendment to transfer funds
18 from the contingency fund. Such transfers shall be in
19 accordance with all applicable provisions of chapter 216 and
20 shall be subject to review and approval by the Legislative
21 Budget Commission. The Justice Administrative Commission shall
22 submit the documentation provided by the office explaining the
23 circumstances that led to the deficit and the steps taken by
24 the office and the Justice Administrative Commission to
25 identify surplus funds to the Legislative Budget Commission.

26 (3) In the event that there is a deficit in a
27 statewide contracted due process services appropriation
28 category provided for private court-appointed counsel
29 necessary due to withdrawal of the public defender and
30 criminal conflict and civil regional counsel due to an ethical
31 conflict, the following steps shall be taken in order:



1 (a) The Justice Administrative Commission shall first
2 attempt to identify surplus funds from other contracted due
3 process services appropriation categories within the Justice
4 Administrative Commission and submit a budget amendment
5 pursuant to chapter 216 to transfer funds from within the
6 commission.

7 (b) In the event that the Justice Administrative
8 Commission is unable to identify surplus funds from within the
9 commission, the commission shall inquire of each of the public
10 defenders and regional counsel as to whether any office has
11 surplus funds in its contracted due process services
12 appropriations categories which can be transferred. If any
13 public defender or regional counsel office or offices indicate
14 that surplus funds are available, the Justice Administrative
15 Commission shall request a budget amendment to transfer funds
16 from the office or offices to alleviate the deficit upon
17 agreement of the contributing office or offices.

18 (c) If no public defender or regional counsel office
19 has surplus funds available to alleviate the deficit, the
20 Justice Administrative Commission may request a budget
21 amendment to transfer funds from the contingency fund. Such
22 transfers shall be in accordance with all applicable
23 provisions of chapter 216 and shall be subject to review and
24 approval by the Legislative Budget Commission. The Justice
25 Administrative Commission shall submit the documentation
26 provided by the office explaining the circumstances that led
27 to the deficit and the steps taken by the Justice
28 Administrative Commission to identify surplus funds to the
29 Legislative Budget Commission.

30 (5) Notwithstanding any provisions in chapter 216 to
31 the contrary, no office shall transfer funds from a contracted



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1 due process services appropriation category or from a
2 contingency fund category authorized in this section except as
3 specifically authorized in this section. In addition, funds
4 shall not be transferred from a state attorney office to
5 alleviate a deficit in a public defender office or an office
6 of criminal conflict and civil regional counsel, and funds
7 shall not be transferred from a public defender office or
8 regional counsel office to alleviate a deficit in a state
9 attorney office.

10 Section 21. Effective October 1, 2007, section 29.018,
11 Florida Statutes, is amended to read:

12 29.018 Cost sharing of due-process services;
13 legislative intent.--It is the intent of the Legislature to
14 provide state-funded due-process services to the state courts
15 system, state attorneys, public defenders, criminal conflict
16 and civil regional counsel, and private court-appointed
17 counsel in the most cost-effective and efficient manner. The
18 state courts system, state attorneys, public defenders,
19 criminal conflict and civil regional counsel, and the Justice
20 Administrative Commission on behalf of private court-appointed
21 counsel may enter into contractual agreements to share, on a
22 pro rata basis, the costs associated with court reporting
23 services, court interpreter and translation services, court
24 experts, and all other due-process services funded by the
25 state pursuant to this chapter. These costs shall be budgeted
26 within the funds appropriated to each of the affected users of
27 services.

28 Section 22. Subsection (1) of section 39.815, Florida
29 Statutes, is amended to read:

30 39.815 Appeal.--

31 (1) Any child, any parent or guardian ad litem of any



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1 child, any other party to the proceeding who is affected by an
2 order of the court, or the department may appeal to the
3 appropriate district court of appeal within the time and in
4 the manner prescribed by the Florida Rules of Appellate
5 Procedure. The district court of appeal shall give an appeal
6 from an order terminating parental rights priority in
7 docketing and shall render a decision on the appeal as
8 expeditiously as possible. Appointed counsel shall be
9 compensated as provided in s. 27.5304(6) ~~s.-27-5304(5)~~.

10 Section 23. Subsections (5) and (6) of section 43.16,
11 Florida Statutes, are amended to read:

12 43.16 Justice Administrative Commission; membership,
13 powers and duties.--

14 (5) The duties of the commission shall include, but
15 not be limited to, the following:

16 (a) The maintenance of a central state office for
17 administrative services and assistance when possible to and on
18 behalf of the state attorneys and public defenders of Florida,
19 the capital collateral regional counsel of Florida, the
20 criminal conflict and civil regional counsel, and the Guardian
21 Ad Litem Program.

22 (b) Each state attorney, and public defender, and
23 criminal conflict and civil regional counsel and the Guardian
24 Ad Litem Program shall continue to prepare necessary budgets,
25 vouchers that ~~which~~ represent valid claims for reimbursement
26 by the state for authorized expenses, and other things
27 incidental to the proper administrative operation of the
28 office, such as revenue transmittals to the Chief Financial
29 Officer and automated systems plans, but will forward same to
30 the commission for recording and submission to the proper
31 state officer. However, when requested by a state attorney, or



1 a public defender, a criminal conflict and civil regional
2 counsel, or the Guardian Ad Litem Program, the commission will
3 either assist in the preparation of budget requests, voucher
4 schedules, and other forms and reports or accomplish the
5 entire project involved.

6 (6) The provisions contained in this section shall be
7 supplemental to those of chapter 27, relating to state
8 attorneys, and public defenders, criminal conflict and civil
9 regional counsel, and capital collateral regional counsel; to
10 those of chapter 39, relating to the Guardian Ad Litem
11 Program; or to other laws pertaining hereto.

12 Section 24. Effective October 1, 2007, section 57.082,
13 Florida Statutes, is amended to read:

14 57.082 Determination of civil indigent status.--

15 (1) APPLICATION TO THE CLERK.--A person seeking
16 appointment of an a-private attorney in a civil case eligible
17 for court-appointed counsel, or seeking relief from prepayment
18 of fees and costs under s. 57.081, based upon an inability to
19 pay must apply to the clerk of the court for a determination
20 of civil indigent status using an application form developed
21 by the Florida Clerks of Court Operations Corporation with
22 final approval by the Supreme Court.

23 (a) The application must include, at a minimum, the
24 following financial information:

25 1. Net income, consisting of total salary and wages,
26 minus deductions required by law, including court-ordered
27 support payments.

28 2. Other income, including, but not limited to, social
29 security benefits, union funds, veterans' benefits, workers'
30 compensation, other regular support from absent family
31 members, public or private employee pensions, unemployment



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1 compensation, dividends, interest, rent, trusts, and gifts.

2 3. Assets, including, but not limited to, cash,
3 savings accounts, bank accounts, stocks, bonds, certificates
4 of deposit, equity in real estate, and equity in a boat or a
5 motor vehicle or in other tangible property.

6 4. All liabilities and debts.

7
8 The application must include a signature by the applicant
9 which attests to the truthfulness of the information provided.
10 The application form developed by the corporation must include
11 notice that the applicant may seek court review of a clerk's
12 determination that the applicant is not indigent, as provided
13 in this section.

14 (b) The clerk shall assist a person who appears before
15 the clerk and requests assistance in completing the
16 application, and the clerk shall notify the court if a person
17 is unable to complete the application after the clerk has
18 provided assistance.

19 (c) The clerk shall accept an application that is
20 signed by the applicant and submitted on his or her behalf by
21 a private attorney who is representing the applicant in the
22 applicable matter.

23 (2) DETERMINATION BY THE CLERK.--The clerk of the
24 court shall determine whether an applicant seeking such
25 designation is indigent based upon the information provided in
26 the application and the criteria prescribed in this
27 subsection.

28 (a)1. An applicant, including an applicant who is a
29 minor or an adult tax-dependent person, is indigent if the
30 applicant's income is equal to or below 200 percent of the
31 then-current federal poverty guidelines prescribed for the



1 size of the household of the applicant by the United States
2 Department of Health and Human Services.

3 2. There is a presumption that the applicant is not
4 indigent if the applicant owns, or has equity in, any
5 intangible or tangible personal property or real property or
6 the expectancy of an interest in any such property having a
7 net equity value of \$2,500 or more, excluding the value of the
8 person's homestead and one vehicle having a net value not
9 exceeding \$5,000.

10 (b) Based upon its review, the clerk shall make one of
11 the following determinations:

12 1. The applicant is not indigent.

13 2. The applicant is indigent.

14 (c) If the clerk determines that the applicant is
15 indigent, the clerk shall immediately file the determination
16 in the case record.

17 (d) The duty of the clerk in determining whether an
18 applicant is indigent is limited to receiving the application
19 and comparing the information provided in the application to
20 the criteria prescribed in this subsection. The determination
21 of indigent status is a ministerial act of the clerk and may
22 not be based on further investigation or the exercise of
23 independent judgment by the clerk. The clerk may contract with
24 third parties to perform functions assigned to the clerk under
25 this section.

26 (e) The applicant may seek review of the clerk's
27 determination that the applicant is not indigent in the court
28 having jurisdiction over the matter by filing a petition to
29 review the clerk's determination of nonindigent status, for
30 which a filing fee may not be charged. If the applicant seeks
31 review of the clerk's determination of indigent status, the



1 court shall make a final determination as provided in
2 subsection (4).

3 (3) APPOINTMENT OF COUNSEL ON AN INTERIM BASIS.--If
4 the clerk of the court has not made a determination of
5 indigent status at the time a person requests appointment of
6 an a-private attorney in a civil case eligible for
7 court-appointed counsel, the court shall make a preliminary
8 determination of indigent status, pending further review by
9 the clerk, and may, by court order, appoint private counsel on
10 an interim basis.

11 (4) REVIEW OF THE CLERK'S DETERMINATION.--

12 (a) If the clerk of the court determines that the
13 applicant is not indigent and the applicant seeks review of
14 the clerk's determination, the court shall make a final
15 determination of indigent status by reviewing the information
16 provided in the application against the criteria prescribed in
17 subsection (2) and by considering the following additional
18 factors:

19 1. Whether paying for private counsel or other fees
20 and costs creates a substantial hardship for the applicant or
21 the applicant's family.

22 2. Whether the applicant is proceeding pro se or is
23 represented by a private attorney for a fee or on a pro bono
24 basis.

25 3. When the applicant retained private counsel.

26 4. The amount of any attorney's fees and who is paying
27 the fees.

28 5. Any other relevant financial circumstances of the
29 applicant or the applicant's family.

30 (b) Based upon its review, the court shall make one of
31 the following determinations and shall, if appropriate,



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1 appoint private counsel:

2 1. The applicant is not indigent.

3 2. The applicant is indigent.

4 (5) APPOINTMENT OF COUNSEL.--In appointing counsel
5 after a determination that a person is indigent under this
6 section, the court shall first appoint the office of criminal
7 conflict and civil regional counsel, as provided in s. 27.511,
8 unless specific provision is made in law for the appointment
9 of the public defender in the particular civil proceeding.

10 (6)+5+ PROCESSING CHARGE; PAYMENT PLANS.--A person who
11 the clerk or the court determines is indigent for civil
12 proceedings under this section shall be enrolled in a payment
13 plan under s. 28.246 and shall be charged a one-time
14 administrative processing charge under s. 28.24(26)(c). A
15 monthly payment amount, calculated based upon all fees and all
16 anticipated costs, is presumed to correspond to the person's
17 ability to pay if it does not exceed 2 percent of the person's
18 annual net income, as defined in subsection (1), divided by
19 12. The person may seek review of the clerk's decisions
20 regarding a payment plan established under s. 28.246 in the
21 court having jurisdiction over the matter. A case may not be
22 impeded in any way, delayed in filing, or delayed in its
23 progress, including the final hearing and order, due to
24 nonpayment of any fees by an indigent person.

25 (7)+6+ FINANCIAL DISCREPANCIES; FRAUD; FALSE
26 INFORMATION.--

27 (a) If the court learns of discrepancies between the
28 application and the actual financial status of the person
29 found to be indigent, the court shall determine whether the
30 status and any relief provided as a result of that status
31 shall be revoked. The person may be heard regarding the



1 information learned by the court. If the court, based on the
2 information, determines that the person is not indigent, the
3 court shall revoke the provision of any relief under this
4 section.

5 (b) If the court has reason to believe that any
6 applicant, through fraud or misrepresentation, was improperly
7 determined to be indigent, the matter shall be referred to the
8 state attorney. Twenty-five percent of any amount recovered by
9 the state attorney as reasonable value of the services
10 rendered, including fees, charges, and costs paid by the state
11 on the person's behalf, shall be remitted to the Department of
12 Revenue for deposit into the Grants and Donations Trust Fund
13 within the Justice Administrative Commission. Seventy-five
14 percent of any amount recovered shall be remitted to the
15 Department of Revenue for deposit into the General Revenue
16 Fund.

17 (c) A person who knowingly provides false information
18 to the clerk or the court in seeking a determination of
19 indigent status under this section commits a misdemeanor of
20 the first degree, punishable as provided in s. 775.082 or s.
21 775.083.

22 Section 25. Paragraph (y) of subsection (2) of section
23 110.205, Florida Statutes, is amended to read:

24 110.205 Career service; exemptions.--

25 (2) EXEMPT POSITIONS.--The exempt positions that are
26 not covered by this part include the following:

27 (y) All officers and employees of the Justice
28 Administrative Commission, Office of the State Attorney,
29 Office of the Public Defender, regional offices of capital
30 collateral counsel, offices of criminal conflict and civil
31 regional counsel, and Statewide Guardian Ad Litem Office,



1 including the circuit guardian ad litem programs.

2 Section 26. Effective October 1, 2007, subsection (2)
3 of section 125.69, Florida Statutes, is amended to read:

4 125.69 Penalties; enforcement by code inspectors.--

5 (2) Each county is authorized and required to pay any
6 attorney appointed by the court to represent a defendant
7 charged with a criminal violation of a special law or county
8 ordinance not ancillary to a state charge if the defendant is
9 indigent and otherwise entitled to court-appointed counsel
10 under the Constitution of the United States or the
11 Constitution of the State of Florida. In these cases, the
12 court shall appoint counsel to represent the defendant in
13 accordance with s. 27.40, and shall order the county to pay
14 the reasonable attorney's fees, costs, and related expenses of
15 the defense. The county may contract with the public defender
16 or the office of criminal conflict and civil regional counsel
17 for ~~of~~ the judicial circuit in which the county is located to
18 serve as court-appointed counsel pursuant to s. 27.54.

19 Section 27. Paragraph (qq) of subsection (1) of
20 section 216.011, Florida Statutes, is amended to read:

21 216.011 Definitions.--

22 (1) For the purpose of fiscal affairs of the state,
23 appropriations acts, legislative budgets, and approved
24 budgets, each of the following terms has the meaning
25 indicated:

26 (qq) "State agency" or "agency" means any official,
27 officer, commission, board, authority, council, committee, or
28 department of the executive branch of state government. For
29 purposes of this chapter and chapter 215, "state agency" or
30 "agency" includes, but is not limited to, state attorneys,
31 public defenders, criminal conflict and civil regional



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1 counsel, capital collateral regional counsel, the Justice
2 Administrative Commission, the Florida Housing Finance
3 Corporation, and the Florida Public Service Commission. Solely
4 for the purposes of implementing s. 19(h), Art. III of the
5 State Constitution, the terms "state agency" or "agency"
6 include the judicial branch.

7 Section 28. Effective October 1, 2007, subsection (2)
8 of section 744.331, Florida Statutes, is amended to read:

9 744.331 Procedures to determine incapacity.--

10 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.--

11 (a) When a court appoints an attorney for an alleged
12 incapacitated person, the court must appoint the office of
13 criminal conflict and civil regional counsel or a private an
14 attorney as prescribed in s. 27.511(6). A private attorney
15 must be one who is included in the attorney registry compiled
16 pursuant to s. 27.40 ss.-27.40-and-27.42-by-the-circuit's
17 Article-V-indigent-services-committee. Appointments of private
18 attorneys must be made on a rotating basis, taking into
19 consideration conflicts arising under this chapter.

20 (b) The court shall appoint an attorney for each
21 person alleged to be incapacitated in all cases involving a
22 petition for adjudication of incapacity. The alleged
23 incapacitated person may substitute her or his own attorney
24 for the attorney appointed by the court.

25 (c) Any attorney representing an alleged incapacitated
26 person may not serve as guardian of the alleged incapacitated
27 person or as counsel for the guardian of the alleged
28 incapacitated person or the petitioner.

29 (d) Effective January 1, 2007, an attorney seeking to
30 be appointed by a court for incapacity and guardianship
31 proceedings must have completed a minimum of 8 hours of



1 education in guardianship. A court may waive the initial
2 training requirement for an attorney who has served as a
3 court-appointed attorney in incapacity proceedings or as an
4 attorney of record for guardians for not less than 3 years.
5 The education requirement of this paragraph does not apply to
6 the office of criminal conflict and civil regional counsel
7 until July 1, 2008.

8 Section 29. Effective October 1, 2007, section 938.29,
9 Florida Statutes, is amended to read:

10 938.29 Legal assistance; lien for payment of
11 attorney's fees or costs.--

12 (1)(a) A defendant determined to be guilty of a
13 criminal act by a court or jury or through a plea of guilty or
14 nolo contendere and who has received the assistance of the
15 public defender's office, a special assistant public defender,
16 the office of criminal conflict and civil regional counsel, or
17 a private conflict attorney, or who has received due process
18 services after being found indigent for costs under s. 27.52,
19 shall be liable for payment of attorney's fees and costs. The
20 court shall determine the amount of the obligation. Such costs
21 shall include, but not be limited to, the cost of depositions;
22 cost of transcripts of depositions, including the cost of
23 defendant's copy, which transcripts are certified by the
24 defendant's attorney as having served a useful purpose in the
25 disposition of the case; investigative costs; witness fees;
26 the cost of psychiatric examinations; or other reasonable
27 costs specially incurred by the state and the clerk of court
28 for the defense of the defendant in criminal prosecutions.
29 Costs shall not include expenses inherent in providing a
30 constitutionally guaranteed jury trial or expenditures in
31 connection with the maintenance and operation of government



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1 agencies that must be made by the public irrespective of
2 specific violations of law. Any costs assessed pursuant to
3 this paragraph shall be reduced by any amount assessed against
4 a defendant pursuant to s. 938.05.

5 (b) Upon entering a judgment of conviction, the
6 defendant shall be liable to pay the costs in full after the
7 judgment of conviction becomes final.

8 (c) The defendant shall pay the application fee under
9 s. 27.52(1)(b) and attorney's fees and costs in full or in
10 installments, at the time or times specified. The court may
11 order payment of the assessed application fee and attorney's
12 fees and costs as a condition of probation, of suspension of
13 sentence, or of withholding the imposition of sentence. The
14 first \$40 from attorney's fees and costs collected under this
15 section shall be transferred monthly by the clerk to the
16 Department of Revenue for deposit into the Indigent Criminal
17 Defense Trust Fund. All remaining attorney's fees and costs
18 collected under this section shall be deposited into the
19 General Revenue Fund.

20 (2)(a) There is created in the name of the state a
21 lien, enforceable as hereinafter provided, upon all the
22 property, both real and personal, of any person who:

23 1. Has received any assistance from any public
24 defender of the state, from any special assistant public
25 defender, from any office of criminal conflict and civil
26 regional counsel, or from any private conflict attorney, or
27 who has received due process services after being found
28 indigent for costs; or

29 2. Is a parent of an accused minor or an accused adult
30 tax-dependent person who is being, or has been, represented by
31 any public defender of the state, by any special assistant



1 public defender, by any office of criminal conflict and civil
2 regional counsel, or by a private conflict attorney, or who is
3 receiving or has received due process services after being
4 found indigent for costs.

5
6 Such lien constitutes a claim against the defendant-recipient
7 or parent and his or her estate, enforceable according to law.

8 (b) A judgment showing the name and residence of the
9 defendant-recipient or parent shall be recorded in the public
10 record, without cost, by the clerk of the circuit court in the
11 county where the defendant-recipient or parent resides and in
12 each county in which such defendant-recipient or parent then
13 owns or later acquires any property. Such judgments shall be
14 enforced on behalf of the state by the clerk of the circuit
15 court of the county in which assistance was rendered.

16 (3) The clerk of the circuit court within the county
17 wherein the defendant-recipient was tried or received the
18 services of a public defender, special assistant public
19 defender, office of criminal conflict and civil regional
20 counsel, or appointed private legal counsel, or received due
21 process services after being found indigent for costs, shall
22 enforce, satisfy, compromise, settle, subordinate, release, or
23 otherwise dispose of any debt or lien imposed under this
24 section. A defendant-recipient or parent, liable to pay
25 attorney's fees or costs and who is not in willful default in
26 the payment thereof, may, at any time, petition the court
27 which entered the order for deferral of the payment of
28 attorney's fees or costs or of any unpaid portion thereof.

29 (4) No lien thus created shall be foreclosed upon the
30 homestead of such defendant-recipient or parent, nor shall any
31 defendant-recipient or parent liable for payment of attorney's



1 fees or costs be denied any of the protections afforded any
2 other civil judgment debtor.

3 (5) The court having jurisdiction of the
4 defendant-recipient shall, at such stage of the proceedings as
5 the court may deem appropriate, determine the value of the
6 services of the public defender, special assistant public
7 defender, office of criminal conflict and civil regional
8 counsel, or appointed private legal counsel and costs, at
9 which time the defendant-recipient or parent, after adequate
10 notice thereof, shall have opportunity to be heard and offer
11 objection to the determination, and to be represented by
12 counsel, with due opportunity to exercise and be accorded the
13 procedures and rights provided in the laws and court rules
14 pertaining to civil cases at law.

15 Section 30. Effective October 1, 2007, section 27.42,
16 Florida Statutes, is repealed.

17 Section 31. (1) The Legislature finds that the
18 creation of offices of criminal conflict and civil regional
19 counsel and the other provisions of this act are necessary and
20 best steps toward enhancing the publicly funded provision of
21 legal representation and other due process services under
22 constitutional and statutory principles in a fiscally
23 responsible and effective manner.

24 (2) It is the intent of the Legislature to facilitate
25 the orderly transition to the creation and operation of the
26 offices of criminal conflict and civil regional counsel, as
27 provided in this act, in order to enhance and fiscally support
28 the system of court-appointed representation for eligible
29 individuals in criminal and civil proceedings. To that end,
30 the Legislature intends that the five criminal conflict and
31 civil regional counsel be appointed as soon as practicable



1 after this act becomes law, to assume a term beginning on July
2 1, 2007. Once appointed, the regional counsel shall use the
3 period between July 1, 2007, and October 1, 2007, to complete
4 the administrative and organizational activities related to
5 establishment of their offices, including, but not limited to,
6 hiring authorized assistant regional counsel and other staff.
7 It is the further intent of the Legislature that the regional
8 offices begin assuming representation of eligible individuals,
9 as provided in this act, on October 1, 2007. If a court finds
10 that a regional office is not sufficiently operational by that
11 date to assume representation in a particular case, it is the
12 intent of the Legislature that the court appoint private
13 counsel for that case. However, it is also the intent of the
14 Legislature that each regional office be fully operational no
15 later than January 1, 2008. The Justice Administrative
16 Commission shall assist the regional counsel as necessary in
17 establishing their offices. In addition, it is the intent of
18 the Legislature that the various agencies and organizations
19 that comprise the state judicial system also assist with the
20 transition from current law to the creation and operation of
21 the regional offices.

22 (3) In furtherance of its findings and intent, the
23 Legislature intends to monitor and review the implementation
24 of this act over a period of 3 years, identify any impediments
25 to successful implementation, and evaluate if the delivery of
26 legal representation and due process services as prescribed in
27 this act should be revised.

28 Section 32. Each private attorney with an active court
29 appointment as of the effective date of this act in a case for
30 which the attorney will seek compensation from the state shall
31 report the case number and type of case to the Justice



1 Administrative Commission by July 15, 2007, unless he or she
2 has already provided this information to the commission. If
3 there is a shortfall in appropriations for court-appointed
4 counsel, the commission shall give priority in payment to
5 those attorneys who have fully complied with the reporting
6 requirement of this section.

7 Section 33. If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 invalidity does not affect other provisions or applications of
10 the act which can be given effect without the invalid
11 provision or application, and to this end the provisions of
12 this act are severable.

13 Section 34. Except as otherwise expressly provided in
14 this act, this act shall take effect upon becoming a law.
15
16

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete everything before the enacting clause
20

21 and insert:

22 A bill to be entitled

23 An act relating to due process; amending s.

24 27.40, F.S.; providing for offices of criminal
25 conflict and civil regional counsel to be
26 appointed to represent persons in certain cases
27 in which the public defender is unable to
28 provide representation; providing for private
29 counsel to be appointed only when the public
30 defender and the regional counsel are unable to
31 provide representation; providing for the clerk



1 of court to maintain the registry of attorneys
2 available for appointment; providing for
3 compensation of appointed counsel who are not
4 on the registry; requiring attorneys to
5 maintain records in order to claim
6 extraordinary compensation; requiring attorneys
7 to provide information in a form prescribed by
8 the Justice Administrative Commission; creating
9 s. 27.405, F.S.; requiring the Justice
10 Administrative Commission to track expenditures
11 and performance measures of court-appointed
12 counsel; requiring reports concerning
13 expenditures, performance measures, and certain
14 characteristics of court-appointed counsel;
15 creating s. 27.425, F.S.; requiring the chief
16 circuit judge to recommend compensation rates
17 for providers of due process services;
18 providing for rates to be prescribed in the
19 General Appropriations Act; creating s. 27.511,
20 F.S.; creating an office of criminal conflict
21 and civil regional counsel within the
22 boundaries of each of the five district courts
23 of appeal; providing legislative intent;
24 directing the Justice Administrative Commission
25 to provide administrative support to the
26 offices; prescribing qualifications for and
27 providing for appointment of the regional
28 counsel; providing prohibitions related to the
29 practice of law; requiring that the criminal
30 conflict and civil regional counsel be
31 appointed when the public defender has a



1 conflict of interest in specified cases;
2 prohibiting appointment of the office in
3 certain circumstances; providing for appellate
4 representation; providing for the regional
5 counsel to provide representation in certain
6 civil proceedings; providing exceptions for
7 certain guardianship cases; amending s. 27.512,
8 F.S., relating to orders of no imprisonment;
9 conforming provisions to the creation of the
10 regional offices; amending s. 27.52, F.S.,
11 relating to the determination of indigent
12 status; conforming provisions to the creation
13 of the regional offices; amending s. 27.525,
14 F.S.; revising the purposes of the Indigent
15 Criminal Defense Trust Fund; amending s. 27.53,
16 F.S.; authorizing the regional counsel to
17 employ assistant regional counsel; authorizing
18 certain investigators to carry concealed
19 weapons and serve process under certain
20 conditions; requiring the regional counsel to
21 recommend modifications to classification and
22 pay plans; providing for appropriations to be
23 determined by a funding formula; amending s.
24 27.5301, F.S.; providing for salaries for the
25 regional counsel and assistant counsel;
26 amending s. 27.5303, F.S., relating to
27 conflicts of interest in the representation of
28 indigent defendants; conforming provisions to
29 changes made by the act; eliminating the
30 authority for the Justice Administrative
31 Commission to contest motions to withdraw;



1 requiring public defenders to submit orders
2 granting motions to withdraw to the commission;
3 requiring the commission to report on such
4 orders; providing for the regional counsel to
5 file a motion to withdraw from a criminal or
6 civil case due to a conflict of interest;
7 providing procedures and criteria; amending s.
8 27.5304, F.S., relating to compensation of
9 private court-appointed counsel, to conform;
10 providing that compensation is based upon a
11 flat fee prescribed in the General
12 Appropriations Act; revising and eliminating
13 certain procedures relating to billings;
14 requiring bills to be submitted within a
15 specified time; providing for penalties for
16 bills submitted after a specified time; raising
17 the maximum fee for representation in capital
18 cases; providing a definition of the term
19 "capital case"; prescribing fee limits for
20 representation in certain dependency
21 proceedings; providing that state compensation
22 for court-appointed attorneys in specified
23 civil cases may not exceed certain limits;
24 prescribing conditions, procedures, and amounts
25 for paying compensation to counsel in excess of
26 established limits; requiring counsel to file a
27 motion and submit documentation; providing for
28 a hearing; requiring a written order and
29 findings; requiring the Office of State Courts
30 Administrator to report data on compensation
31 exceeding prescribed limits; amending s. 27.54,



1 F.S., relating to payments for public
2 defenders; conforming provisions to the
3 creation of the offices of criminal conflict
4 and civil regional counsel; amending s. 27.59,
5 F.S.; authorizing the regional counsel to have
6 access to prisoners; amending s. 28.24, F.S.;
7 requiring the clerk of court to provide certain
8 services to the criminal conflict and civil
9 regional counsel without charge; expanding the
10 authorized use of certain service-charge
11 revenues distributed to counties to include
12 technology for the regional counsel; amending
13 s. 28.345, F.S.; exempting the regional counsel
14 from certain court-related fees and charges;
15 amending s. 29.001, F.S.; providing for the
16 public defenders' offices to include the
17 criminal conflict and civil regional counsel
18 for purposes of implementing provisions of the
19 State Constitution; providing for state
20 funding; amending ss. 29.006 and 29.007, F.S.,
21 relating to indigent defense costs and
22 court-appointed counsel; conforming provisions
23 to the creation of the regional counsel;
24 amending s. 29.008, F.S.; requiring counties to
25 provide certain funding related to the offices
26 of the guardian ad litem and the criminal
27 conflict and civil regional counsel; revising
28 definitions related to county funding
29 responsibilities; revising methods for
30 determining certain local funding requirements,
31 to conform; amending s. 29.015, F.S., relating



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1 to deficits in due-process funds; conforming
2 provisions to the creation of the regional
3 counsel; revising procedures for use of certain
4 contingency funds; amending s. 29.018, F.S.,
5 relating to cost sharing of due-process
6 services; conforming provisions to the creation
7 of the regional counsel; amending s. 39.815,
8 F.S.; conforming a cross-reference; amending s.
9 43.16, F.S.; authorizing the Justice
10 Administrative Commission to provide
11 administrative assistance to criminal conflict
12 and civil regional counsel; revising the
13 application of provisions to conform to changes
14 made by the act; amending s. 57.082, F.S.;
15 revising provisions governing the determination
16 of civil indigent status in order to include
17 the appointment of public attorneys in addition
18 to private attorneys; requiring the court to
19 appoint the office of criminal conflict and
20 civil regional counsel in certain civil cases;
21 amending s. 110.205, F.S.; exempting officers
22 and employees of the regional offices from the
23 state career service system; amending s.
24 125.69, F.S.; authorizing counties to contract
25 with the regional counsel to represent
26 defendants charged with violations of
27 ordinances; amending s. 216.011, F.S.;
28 providing that the regional offices are state
29 agencies for state budgeting purposes; amending
30 s. 744.331, F.S.; providing for the appointment
31 of the office of criminal conflict and civil



1 regional counsel or a private attorney for
2 alleged incapacitated persons; providing a
3 temporary exception from certain education
4 requirements for regional counsel; amending s.
5 938.29, F.S.; providing that certain defendants
6 are liable for regional counsel fees and
7 certain due-process costs; providing for
8 disbursement of collected costs and fees;
9 creating a lien against the property of persons
10 who receive regional counsel representation and
11 other due-process services; creating a lien
12 against certain parents for fees and costs;
13 providing for enforcement by the clerk and
14 valuation of fees and costs by the court;
15 repealing s. 27.42, F.S., relating to circuit
16 Article V indigent services committees;
17 providing legislative findings and intent
18 regarding implementation of the act; requiring
19 attorneys to report on active court-appointed
20 cases; providing payment priority for attorneys
21 complying with the reporting requirement;
22 providing for severability; providing effective
23 dates.

The Conference Committee Amendment for Committee Substitute for Senate Bill 1100, relating to securities transactions regulation, increases the licensing fee for security agents from \$30 to \$50. The increased revenue will be distributed to the Regulatory Trust Fund within the Office of Financial Regulation to support program operations.



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Senate

CHAMBER ACTION

House

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The Conference Committee on CS for SB 1100, 1st Eng.
recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (10) of section 517.12, Florida
Statutes, is amended to read:

517.12 Registration of dealers, associated persons,
investment advisers, and branch offices.--

(10) An applicant for registration shall pay an
assessment fee of \$200, in the case of a dealer or investment
adviser, or \$50 \$40, in the case of an associated person. The
~~assessment-fee-of-an-associated-person-shall-be-reduced-to~~
~~\$30,-but-only-after-the-office-determines,-by-final-order,~~
~~that-sufficient-funds-have-been-allocated-to-the-Securities~~
~~Guaranty-Fund-pursuant-to-s.-517.1203-to-satisfy-all-valid~~
~~claims-filed-in-accordance-with-s.-517.1203(2)-and-after-all~~
~~amounts-payable-under-any-service-contract-entered-into-by-the~~
~~office-pursuant-to-s.-517.1204,-and-all-notes,-bonds,-~~



1 certificates-of-indebtedness,-other-obligations,-or-evidences
2 of-indebtedness-secured-by-such-notes,-bonds,-certificates-of
3 indebtedness,-or-other-obligations,-have-been-paid-or
4 provision-has-been-made-for-the-payment-of-such-amounts,-
5 notes,-bonds,-certificates-of-indebtedness,-other-obligations,-
6 or-evidences-of-indebtedness: An associated person may be
7 assessed an additional fee to cover the cost for the
8 fingerprint cards to be processed by the office. Such fee
9 shall be determined by rule of the commission. Each dealer and
10 each investment adviser shall pay an assessment fee of \$100
11 for each office in this state. Such fees become the revenue of
12 the state, except for those assessments provided for under s.
13 517.131(1) until such time as the Securities Guaranty Fund
14 satisfies the statutory limits, and are not returnable in the
15 event that registration is withdrawn or not granted.

16 Section 2. Sections 517.1203 and 517.1204, Florida
17 Statutes, are repealed.

18 Section 3. Subsection (1) of section 517.131, Florida
19 Statutes, is amended to read:

20 517.131 Securities Guaranty Fund.--

21 (1)(a) The Chief Financial Officer shall establish a
22 Securities Guaranty Fund. An amount not exceeding 20 percent
23 of all revenues received as assessment fees pursuant to s.
24 517.12(10) and (11) for dealers and investment advisers or s.
25 517.1201 for federal covered advisers and an amount not
26 exceeding 10 percent of all revenues received as assessment
27 fees pursuant to s. 517.12(10) and (11) for associated persons
28 shall be allocated-to-the-fund.-An-additional-amount-not
29 exceeding-3-5-percent-of-all-revenues-received-as-assessment
30 fees-for-associated-persons-pursuant-to-s.-517-12(10)-and-(11)
31 shall-be-allocated-to-the-Securities-Guaranty-Fund-but-only



1 after-the-office-determines,-by-final-order,-that-sufficient
2 funds-have-been-allocated-to-the-fund-pursuant-to-s.-517-1203
3 to-satisfy-all-valid-claims-filed-in-accordance-with-s-
4 517-1203(2)-and-after-all-amounts-payable-under-any-service
5 contract-entered-into-by-the-office-pursuant-to-s.-517-1204,
6 and-all-notes,-bonds,-certificates-of-indebtedness,-other
7 obligations,-or-evidences-of-indebtedness-secured-by-such
8 notes,-bonds,-certificates-of-indebtedness,-or-other
9 obligations,-have-been-paid-or-provision-has-been-made-for-the
10 payment-of-such-amounts,-notes,-bonds,-certificates-of
11 indebtedness,-other-obligations,-or-evidences-of-indebtedness-
12 This-assessment-fee-shall-be part of the regular license fee
13 and shall be transferred to or deposited in the Securities
14 Guaranty Fund.

15 (b) If the fund at any time exceeds \$1.5 million,
16 transfer allocation of assessment fees to this fund shall be
17 discontinued at the end of that license year, and transfer of
18 such assessment fees shall not be resumed reimposed unless the
19 fund is reduced below \$1 million by disbursement made in
20 accordance with s. 517.141.

21 Section 4. Section 517.315, Florida Statutes, is
22 amended to read:

23 517.315 Fees.--All fees and-charges of any nature
24 collected by the office pursuant to this chapter shall be
25 disbursed as follows:

26 (1) The office shall transfer the amount of fees
27 required to be deposited into the Securities Guaranty Fund
28 pursuant to s. 517.131;

29 (2) After the transfer required in subsection (1), the
30 office shall transfer \$20 of the \$50 assessment fee collected
31 from each associated person under s. 517.12(10) and (11) to



1 the Regulatory Trust Fund; and

2 (3) All remaining fees shall be deposited into the
3 General Revenue Fund.~~,-except-the-fees-and-charges-collected~~
4 ~~pursuant-to-s.-517.131,-shall-be-paid-into-the-State-Treasury~~
5 ~~and-credited-to-the-General-Revenue-Fund,-and-an-appropriation~~
6 ~~shall-be-made-annually-of-necessary-funds-for-the~~
7 ~~administration-of-the-provisions-of-this-chapter-~~

8 Section 5. This act shall take effect July 1, 2007.

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11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete everything before the enacting clause

14
15 and insert:

16 A bill to be entitled

17 An act relating to the regulation of securities
18 transactions; amending s. 517.12, F.S.;
19 increasing the registration and filing fees for
20 associated persons; deleting provisions
21 providing for an assessment fee to be allocated
22 to the Securities Guaranty Fund; repealing ss.
23 517.1203 and 517.1204, F.S., relating to the
24 allocation and disbursement of assessment fees
25 and the Investment Fraud Restoration Financing
26 Corporation; amending s. 517.131, F.S.;
27 revising the formula for transferring revenues
28 received as assessment fees into the Securities
29 Guaranty Fund; amending s. 517.315 , F.S.;
30 revising requirements for the Office of
31 Financial Regulation with respect to the

Bill No. CS for SB 1100, 1st Enq.

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1 deposit of fees collected under ch. 517, F.S.;

2 providing an effective date.

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The Conference Committee Amendment for Committee Substitute for Senate Bill 1104 relating to the vessels registration fee authorizes a \$2 surcharge on each vessel registration. This surcharge revenue will provide a dedicated funding source for the Derelict Vessel Removal Grant program in the Fish and Wildlife Conservation Commission.



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Senate

CHAMBER ACTION

House

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The Conference Committee on CS for SB 1104 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (9) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.--

(9) (a) SURCHARGE.--In addition, there is hereby levied and imposed on each vessel registration fee imposed under subsection (1) a surcharge in the amount of \$1, which shall be collected in the same manner as the fee and deposited into the State Agency Law Enforcement Radio System Trust Fund of the Department of Management Services.

(b) In addition, there is levied and imposed on each vessel registration fee imposed under subsection (1) a surcharge in the amount of \$2, which shall be collected in the



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1 same manner as the fee and deposited into the Marine Resources
2 Conservation Trust Fund within the Fish and Wildlife
3 Conservation Commission for the purpose of funding the
4 derelict vessel grant program established under s. 376.15(2).
5 From these funds the Fish and Wildlife Conservation Commission
6 may retain up to 10 percent to cover the administrative costs
7 of the grant program.

8 Section 2. Subsection (2) of section 376.15, Florida
9 Statutes, is amended to read:

10 376.15 Derelict vessels; removal from public waters.--

11 (2)(a) The Fish and Wildlife Conservation Commission
12 and its officers and all law enforcement officers as specified
13 in s. 327.70 are authorized and empowered to remove any
14 derelict vessel as defined in s. 823.11(1) from public waters.
15 All costs incurred by the commission or other law enforcement
16 agency in the removal of any abandoned or derelict vessel
17 shall be recoverable against the owner of the vessel. The
18 Department of Legal Affairs shall represent the commission in
19 such actions.

20 (b) The commission may establish a program to provide
21 grants to local governments for the removal of derelict
22 vessels from the public waters of the state. The program shall
23 be funded from the Florida Coastal Protection Trust Fund and
24 the Marine Resources Conservation Trust Fund. Notwithstanding
25 ~~the provisions in~~ s. 216.181(11), funds available for grants
26 may only be authorized by appropriations acts of the
27 Legislature.

28 (c) The commission shall adopt by rule procedures for
29 submitting a grant application and criteria for allocating
30 available funds. Such criteria shall include, but not be
31 limited to, the following:



1 1. The number of derelict vessels within the
2 jurisdiction of the applicant.

3 2. The threat posed by such vessels to public health
4 or safety, the environment, navigation, or the aesthetic
5 condition of the general vicinity.

6 3. The degree of commitment of the local government to
7 maintain waters free of abandoned and derelict vessels and to
8 seek legal action against those who abandon vessels in the
9 waters of the state.

10 (d) This section shall constitute the authority for
11 such removal but is not intended to be in contravention of any
12 applicable federal act.

13 Section 3. This act shall take effect July 1, 2007.

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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete everything before the enacting clause

19
20 and insert:

21 A bill to be entitled

22 An act relating to vessels; amending s. 328.72,
23 F.S.; imposing an additional surcharge on the
24 vessel registration fee to be deposited into
25 the Marine Resources Conservation Trust Fund
26 within the Fish and Wildlife Conservation
27 Commission; authorizing the commission to
28 retain a percentage of the funds to cover
29 certain costs of the grant program; amending s.
30 376.15, F.S.; requiring that a program for the
31 removal of derelict vessels established by the



1 commission be funded in part from the Marine
2 Resources Conservation Trust Fund; providing an
3 effective date.
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The Conference Committee Amendment for CS/SB 1116 relating to Healthcare:

- Amends s. 381.0302(6), Florida Statutes, to allow dentists to qualify for loan repayment assistance, travel and relocation reimbursement during their last 2 years of residency training or upon completion of residency training, in return for an agreement to serve a minimum of 2 years in the Florida Health Services Corps.
- Amends s. 381.0302(7)&(12), Florida Statutes, to repeal references to the Florida Health Services Corps Trust Fund and replace with the Administrative Trust Fund.
- Amends s. 394.9082(4)(a), Florida Statutes, to repeal an obsolete cross reference.
- Amends s. 409.905(5)(c), Florida Statutes, to require that a hospital meet each specific criteria to qualify for a reimbursement rate adjustment.
- Amends s. 409.906(22), Florida Statutes, to allow the Agency for Health Care Administration to pay for all-inclusive psychiatric inpatient hospital care for Medicaid recipients age 65 and older in qualified private free-standing specialty hospitals.
- Creates s. 409.906(26), Florida Statutes, to allow the Agency for Health Care Administration to pay for all services provided to a Medicaid recipient by an anesthesiologist assistant licensed under s. 458.3475, F.S. or s. 459.023, F.S. at a reimbursement level no less than 80 percent of the reimbursement than would be paid to a physician providing the same service.
- Repeals s. 409.9061, Florida Statutes, to eliminate the authorization of a statewide laboratory services contract for Medicaid recipients.
- Amends s. 409.908, Florida Statutes, to eliminate the requirement that a nursing home provider receive a reimbursement rate that is equivalent to the previous owner's rate after a change of ownership; to eliminate a requirement that Medicaid will not pay coinsurance and deductibles for services that are not provided by Medicaid; and to limit Medicaid payments for nursing home Medicare Part A coinsurance to the Medicaid per diem rate less any amount paid by Medicare, but only up to the Medicare coinsurance amount.
- Amends s. 409.911, Florida Statutes, to update the years of audited data used in determining Medicaid and charity care days for each hospital in the Disproportionate Share program from 2000, 2001 and 2002 to 2001, 2002, and 2003; and to change the fiscal year that funds are distributed under the Disproportionate Share program from Fiscal Year 2006-2007 to Fiscal Year 2007-2008.
- Amends s. 409.9112, Florida Statutes, to update dates from Fiscal Year 2006-2007 to Fiscal Year 2007-2008, continuing the prohibition on distributing funds through the Regional Perinatal Intensive Care Disproportionate Share program.
- Amends s. 409.9113, Florida Statutes, to update the state fiscal year dates from Fiscal Year 2006-2007 to Fiscal Year 2007-2008, to allow for disproportionate share payments to teaching hospitals.

- Amends s. 409.9117, Florida Statutes, to update dates from Fiscal Year 2006-2007 to Fiscal Year 2007-2008, continuing the prohibition on distributing funds through the Primary Care Disproportionate Share program.
- Amends s. 409.912(4)(b), Florida Statutes, to require capitated prepaid behavioral health managed care companies to provide an annual report to the Agency for Health Care Administration that includes the annual percentage of the capitation expended for behavioral health care services; and to eliminate the requirement that 80 percent of the capitation paid to a prepaid behavioral health managed care plan be expended for behavioral health services and the difference be returned to the agency if expenditures fall below 80 percent.
- Repeals s. 409.912(4)(b)1., Florida Statutes, to eliminate obsolete language that required the Agency for Health Care Administration to modify contracts by January 1, 2001 with entities providing comprehensive inpatient and outpatient mental health care services to Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties.
- Amends s. 409.912(4)(b)(7), and s. 409.91211(3)(dd), Florida Statutes, to exempt Medicaid-eligible children whose cases are open for child welfare services in the HomeSafeNet system and who reside in Area 10 from having to participate in the separate specialty prepaid plan operated by the community-based lead agencies.
- Creates s. 409.912(4)(b)(8), Florida Statutes, to require the Agency for Health Care Administration to calculate prepaid behavioral health plan capitation rates using a methodology based on 90 percent fee-for-service data and 10 percent encounter data in the first year of payments using an encounter data system; and, 75 percent fee-for-service data and 25 percent encounter data in the second and third years of payments using an encounter data system.
- Creates s. 409.912(53), Florida Statutes, to prohibit a pharmacist from dispensing a drug for immunosuppressive therapy following transplant unless the drug is the specific formulation and manufactured by the specific manufacturer as prescribed by the physician; and allows a pharmacist to substitute a drug product that is generically equivalent for immunosuppressive therapy following transplant only if the pharmacist obtains a signed authorization from the prescribing physician.
- Creates s. 409.912(54), Florida Statutes, to require the Agency for Health Care Administration to notify the Legislature before implementing programs authorized under the federal Deficit Reduction Act of 2005.
- Amends s. 409.9122(13), Florida Statutes, to require the Agency for Health Care Administration to give priority to the providers that initially qualified under the section when assigning recipients to managed care plans until the providers reach 15,000 members per month; and to prohibit enrollment assignment under the section if the managed care plan has an enrollment of 25,000 or more members statewide.
- Amends s. 409.9124, Florida Statutes, to eliminate the requirement that managed care per-member per-month rate averages do not exceed the amount in the General

Appropriations Act for the fiscal year in which the rates are in effect; to increase the percentage payment limit used in the methodology for reimbursing managed care providers by 0.5 percent on January 1, 2008 and an additional 1.5 percent on January 1, 2009; and to require that the payment limit for managed care per-member per-month rates do not exceed 100% for any area or eligibility category.

- Amends s. 409.913, Florida Statutes, to exclude independent laboratory services from the Medicaid explanation of benefits.
- Amends s. 430.705, Florida Statutes, to require long-term care community diversion pilot projects to include hospice care provided by a licensed hospice provider.
- Amends s.458.319, and s. 459.0092, Florida Statutes, to waive the biennial license renewal fee for up to 10,000 allopathic or osteopathic physicians, who have a valid, active license to practice under chapters 458 and 459; whose primary practice address, as reported under s. 456.041, is located within the state; and who submit to the department, prior to the applicable license renewal date, a sworn affidavit that the physician is prescribing medications exclusively through the use of electronic prescribing software at the physician's primary practice address; to define "electronic prescribing software" as, at a minimum, software that electronically generates and securely transmits, in real-time, a patient prescription to a pharmacy; to allow the department to adopt rules; and to provide an expiration date of the section of law on July 1, 2008.

Bill No. CS for SB 1116, 1st Eng.



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Senate

CHAMBER ACTION

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The Conference Committee on CS for SB 1116, 1st Eng.
recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsections (6), (7), and (12) of section
381.0302, Florida Statutes, are amended to read:

381.0302 Florida Health Services Corps.--

(6) The department may provide loan repayment
assistance and travel and relocation reimbursement to
dentists, allopathic and osteopathic medical residents with
primary care specialties during their last 2 years of
residency training or upon completion of residency training,
and to physician assistants and nurse practitioners with
primary care specialties, in return for an agreement to serve
a minimum of 2 years in the Florida Health Services Corps.
During the period of service, the maximum amount of annual
financial payments shall not be greater than the annual total
of loan repayment assistance and tax subsidies authorized by



1 the National Health Services Corps loan repayment program.

2 (7) The financial penalty for noncompliance with
3 participation requirements for persons who have received
4 financial payments under subsection (5) or subsection (6)
5 shall be determined in the same manner as in the National
6 Health Services Corps scholarship program. In addition,
7 noncompliance with participation requirements shall also
8 result in ineligibility for professional licensure or renewal
9 of licensure under chapter 458, chapter 459, chapter 460, part
10 I of chapter 464, chapter 465, or chapter 466. For a
11 participant who is unable to participate for reasons of
12 disability, the penalty is the actual amount of financial
13 assistance provided to the participant. Financial penalties
14 shall be deposited in the Administrative Florida-Health
15 Services-Corps Trust Fund and shall be used to provide
16 additional scholarship and financial assistance.

17 (12) ~~Funds-appropriated-under-this-section-shall-be~~
18 ~~deposited-in-the-Florida-Health-Services-Corps-Trust-Fund,~~
19 ~~which-shall-be-administered-by-the-department.~~ The department
20 may use funds appropriated for the Florida Health Services
21 Corps as matching funds for federal service-obligation
22 scholarship programs for health care practitioners, such as
23 the Demonstration Grants to States for Community Scholarship
24 Grants program. If funds appropriated under this section are
25 used as matching funds, federal criteria shall be followed
26 whenever there is a conflict between provisions in this
27 section and federal requirements.

28 Section 2. Paragraph (a) of subsection (4) of section
29 394.9082, Florida Statutes, is amended to read:

30 394.9082 Behavioral health service delivery
31 strategies.--



1 (4) CONTRACT FOR SERVICES.--

2 (a) The Department of Children and Family Services and
3 the Agency for Health Care Administration may contract for the
4 provision or management of behavioral health services with a
5 managing entity in at least two geographic areas. Both the
6 Department of Children and Family Services and the Agency for
7 Health Care Administration must contract with the same
8 managing entity in any distinct geographic area where the
9 strategy operates. This managing entity shall be accountable
10 at a minimum for the delivery of behavioral health services
11 specified and funded by the department and the agency. The
12 geographic area must be of sufficient size in population and
13 have enough public funds for behavioral health services to
14 allow for flexibility and maximum efficiency. ~~Notwithstanding~~
15 ~~the provisions of s. 409.912(4)(b)1.~~ At least one service
16 delivery strategy must be in one of the service districts in
17 the catchment area of G. Pierce Wood Memorial Hospital.

18 Section 3. Paragraph (c) of subsection (5) of section
19 409.905, Florida Statutes, is amended to read:

20 409.905 Mandatory Medicaid services.--The agency may
21 make payments for the following services, which are required
22 of the state by Title XIX of the Social Security Act,
23 furnished by Medicaid providers to recipients who are
24 determined to be eligible on the dates on which the services
25 were provided. Any service under this section shall be
26 provided only when medically necessary and in accordance with
27 state and federal law. Mandatory services rendered by
28 providers in mobile units to Medicaid recipients may be
29 restricted by the agency. Nothing in this section shall be
30 construed to prevent or limit the agency from adjusting fees,
31 reimbursement rates, lengths of stay, number of visits, number



1 of services, or any other adjustments necessary to comply with
2 the availability of moneys and any limitations or directions
3 provided for in the General Appropriations Act or chapter 216.

4 (5) HOSPITAL INPATIENT SERVICES.--The agency shall pay
5 for all covered services provided for the medical care and
6 treatment of a recipient who is admitted as an inpatient by a
7 licensed physician or dentist to a hospital licensed under
8 part I of chapter 395. However, the agency shall limit the
9 payment for inpatient hospital services for a Medicaid
10 recipient 21 years of age or older to 45 days or the number of
11 days necessary to comply with the General Appropriations Act.

12 (c) The Agency for Health Care Administration shall
13 adjust a hospital's current inpatient per diem rate to reflect
14 the cost of serving the Medicaid population at that
15 institution if:

16 1. The hospital experiences an increase in Medicaid
17 caseload by more than 25 percent in any year, primarily
18 resulting from the closure of a hospital in the same service
19 area occurring after July 1, 1995, and;

20 2- the hospital's Medicaid per diem rate is at least
21 25 percent below the Medicaid per patient cost for that year;
22 or

23 2.3- The hospital is located in a county that has five
24 or fewer hospitals, began offering obstetrical services on or
25 after September 1999, and has submitted a request in writing
26 to the agency for a rate adjustment after July 1, 2000, but
27 before September 30, 2000, in which case such hospital's
28 Medicaid inpatient per diem rate shall be adjusted to cost,
29 effective July 1, 2002.

30
31 No later than October 1 of each year, the agency must provide



1 estimated costs for any adjustment in a hospital inpatient per
2 diem pursuant to this paragraph to the Executive Office of the
3 Governor, the House of Representatives General Appropriations
4 Committee, and the Senate Appropriations Committee. Before the
5 agency implements a change in a hospital's inpatient per diem
6 rate pursuant to this paragraph, the Legislature must have
7 specifically appropriated sufficient funds in the General
8 Appropriations Act to support the increase in cost as
9 estimated by the agency.

10 Section 4. Subsection (22) of section 409.906, Florida
11 Statutes, is amended, and subsection (26) is added to that
12 section, to read:

13 409.906 Optional Medicaid services.--Subject to
14 specific appropriations, the agency may make payments for
15 services which are optional to the state under Title XIX of
16 the Social Security Act and are furnished by Medicaid
17 providers to recipients who are determined to be eligible on
18 the dates on which the services were provided. Any optional
19 service that is provided shall be provided only when medically
20 necessary and in accordance with state and federal law.
21 Optional services rendered by providers in mobile units to
22 Medicaid recipients may be restricted or prohibited by the
23 agency. Nothing in this section shall be construed to prevent
24 or limit the agency from adjusting fees, reimbursement rates,
25 lengths of stay, number of visits, or number of services, or
26 making any other adjustments necessary to comply with the
27 availability of moneys and any limitations or directions
28 provided for in the General Appropriations Act or chapter 216.
29 If necessary to safeguard the state's systems of providing
30 services to elderly and disabled persons and subject to the
31 notice and review provisions of s. 216.177, the Governor may



1 direct the Agency for Health Care Administration to amend the
2 Medicaid state plan to delete the optional Medicaid service
3 known as "Intermediate Care Facilities for the Developmentally
4 Disabled." Optional services may include:

5 (22) PSYCHIATRIC STATE HOSPITAL SERVICES.--The agency
6 may pay for all-inclusive psychiatric inpatient hospital care
7 provided to a recipient age 65 or older in a state treatment
8 facility or in a qualified private free-standing specialty
9 mental hospital.

10 (26) ANESTHESIOLOGIST ASSISTANT SERVICES.--The agency
11 may pay for all services provided to a recipient by an
12 anesthesiologist assistant licensed under s. 458.3475 or s.
13 459.023. Reimbursement for such services must be not less than
14 80 percent of the reimbursement that would be paid to a
15 physician who provided the same services.

16 Section 5. Section 409.9061, Florida Statutes, is
17 repealed.

18 Section 6. Paragraph (b) of subsection (2) and
19 subsection (13) of section 409.908, Florida Statutes, are
20 amended to read:

21 409.908 Reimbursement of Medicaid providers.--Subject
22 to specific appropriations, the agency shall reimburse
23 Medicaid providers, in accordance with state and federal law,
24 according to methodologies set forth in the rules of the
25 agency and in policy manuals and handbooks incorporated by
26 reference therein. These methodologies may include fee
27 schedules, reimbursement methods based on cost reporting,
28 negotiated fees, competitive bidding pursuant to s. 287.057,
29 and other mechanisms the agency considers efficient and
30 effective for purchasing services or goods on behalf of
31 recipients. If a provider is reimbursed based on cost



1 reporting and submits a cost report late and that cost report
2 would have been used to set a lower reimbursement rate for a
3 rate semester, then the provider's rate for that semester
4 shall be retroactively calculated using the new cost report,
5 and full payment at the recalculated rate shall be effected
6 retroactively. Medicare-granted extensions for filing cost
7 reports, if applicable, shall also apply to Medicaid cost
8 reports. Payment for Medicaid compensable services made on
9 behalf of Medicaid eligible persons is subject to the
10 availability of moneys and any limitations or directions
11 provided for in the General Appropriations Act or chapter 216.
12 Further, nothing in this section shall be construed to prevent
13 or limit the agency from adjusting fees, reimbursement rates,
14 lengths of stay, number of visits, or number of services, or
15 making any other adjustments necessary to comply with the
16 availability of moneys and any limitations or directions
17 provided for in the General Appropriations Act, provided the
18 adjustment is consistent with legislative intent.

19 (2)

20 (b) Subject to any limitations or directions provided
21 for in the General Appropriations Act, the agency shall
22 establish and implement a Florida Title XIX Long-Term Care
23 Reimbursement Plan (Medicaid) for nursing home care in order
24 to provide care and services in conformance with the
25 applicable state and federal laws, rules, regulations, and
26 quality and safety standards and to ensure that individuals
27 eligible for medical assistance have reasonable geographic
28 access to such care.

29 ~~1.--Changes-of-ownership-or-of-licensed-operator-may-or~~
30 ~~may-not-qualify-for-increases-in-reimbursement-rates~~
31 ~~associated-with-the-change-of-ownership-or-of-licensed~~



~~operator--The agency may amend the Title XIX Long-Term Care Reimbursement Plan to provide that the initial nursing home reimbursement rates, for the operating, patient care, and MAR components, associated with related and unrelated party changes of ownership or licensed operator filed on or after September 1, 2001, are equivalent to the previous owner's reimbursement rate.~~

1.2- The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling, and the indirect care subcomponent may be limited by the lower of the cost-based class ceiling, the target rate class ceiling, or the individual provider target.

2.3- The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, minimum data set, and care plan coordinators, staff development, and staffing coordinator.

3.4- All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office



1 or management company.

2 ~~4.5-~~ On July 1 of each year, the agency shall report
3 to the Legislature direct and indirect care costs, including
4 average direct and indirect care costs per resident per
5 facility and direct care and indirect care salaries and
6 benefits per category of staff member per facility.

7 ~~5.6-~~ In order to offset the cost of general and
8 professional liability insurance, the agency shall amend the
9 plan to allow for interim rate adjustments to reflect
10 increases in the cost of general or professional liability
11 insurance for nursing homes. This provision shall be
12 implemented to the extent existing appropriations are
13 available.

14
15 It is the intent of the Legislature that the reimbursement
16 plan achieve the goal of providing access to health care for
17 nursing home residents who require large amounts of care while
18 encouraging diversion services as an alternative to nursing
19 home care for residents who can be served within the
20 community. The agency shall base the establishment of any
21 maximum rate of payment, whether overall or component, on the
22 available moneys as provided for in the General Appropriations
23 Act. The agency may base the maximum rate of payment on the
24 results of scientifically valid analysis and conclusions
25 derived from objective statistical data pertinent to the
26 particular maximum rate of payment.

27 (13) Medicare premiums for persons eligible for both
28 Medicare and Medicaid coverage shall be paid at the rates
29 established by Title XVIII of the Social Security Act. For
30 Medicare services rendered to Medicaid-eligible persons,
31 Medicaid shall pay Medicare deductibles and coinsurance as



1 follows:

2 ~~{a}--Medicaid-shall-make-no-payment-toward-deductibles~~
3 ~~and-coinsurance-for-any-service-that-is-not-covered-by~~
4 ~~Medicaid-~~

5 (a)~~(b)~~ Medicaid's financial obligation for deductibles
6 and coinsurance payments shall be based on Medicare allowable
7 fees, not on a provider's billed charges.

8 (b)~~(e)~~ Medicaid will pay no portion of Medicare
9 deductibles and coinsurance when payment that Medicare has
10 made for the service equals or exceeds what Medicaid would
11 have paid if it had been the sole payor. The combined payment
12 of Medicare and Medicaid shall not exceed the amount Medicaid
13 would have paid had it been the sole payor. The Legislature
14 finds that there has been confusion regarding the
15 reimbursement for services rendered to dually eligible
16 Medicare beneficiaries. Accordingly, the Legislature clarifies
17 that it has always been the intent of the Legislature before
18 and after 1991 that, in reimbursing in accordance with fees
19 established by Title XVIII for premiums, deductibles, and
20 coinsurance for Medicare services rendered by physicians to
21 Medicaid eligible persons, physicians be reimbursed at the
22 lesser of the amount billed by the physician or the Medicaid
23 maximum allowable fee established by the Agency for Health
24 Care Administration, as is permitted by federal law. It has
25 never been the intent of the Legislature with regard to such
26 services rendered by physicians that Medicaid be required to
27 provide any payment for deductibles, coinsurance, or
28 copayments for Medicare cost sharing, or any expenses incurred
29 relating thereto, in excess of the payment amount provided for
30 under the State Medicaid plan for such service. This payment
31 methodology is applicable even in those situations in which



1 the payment for Medicare cost sharing for a qualified Medicare
2 beneficiary with respect to an item or service is reduced or
3 eliminated. This expression of the Legislature is in
4 clarification of existing law and shall apply to payment for,
5 and with respect to provider agreements with respect to, items
6 or services furnished on or after the effective date of this
7 act. This paragraph applies to payment by Medicaid for items
8 and services furnished before the effective date of this act
9 if such payment is the subject of a lawsuit that is based on
10 the provisions of this section, and that is pending as of, or
11 is initiated after, the effective date of this act.

12 (c)-(d) Notwithstanding paragraphs (a)-(b) (a)-(e):

13 1. Medicaid payments for Nursing Home Medicare part A
14 coinsurance shall be limited to the lesser of the Medicare
15 coinsurance amount or the Medicaid nursing home per diem rate
16 less any amount paid by Medicare, but only up to the Medicare
17 coinsurance. The Medicaid per diem rate shall be the rate in
18 effect for the dates of service of the crossover claims and
19 may not be subsequently adjusted due to subsequent per diem
20 rate adjustments.

21 2. Medicaid shall pay all deductibles and coinsurance
22 for Medicare-eligible recipients receiving freestanding end
23 stage renal dialysis center services.

24 3. Medicaid payments for general hospital inpatient
25 services shall be limited to the Medicare deductible per spell
26 of illness and coinsurance. Medicaid shall make no payment
27 toward coinsurance for Medicare general hospital inpatient
28 services.

29 4. Medicaid shall pay all deductibles and coinsurance
30 for Medicare emergency transportation services provided by
31 ambulances licensed pursuant to chapter 401.



1 Section 7. Paragraph (a) of subsection (2) of section
2 409.911, Florida Statutes, is amended to read:

3 409.911 Disproportionate share program.--Subject to
4 specific allocations established within the General
5 Appropriations Act and any limitations established pursuant to
6 chapter 216, the agency shall distribute, pursuant to this
7 section, moneys to hospitals providing a disproportionate
8 share of Medicaid or charity care services by making quarterly
9 Medicaid payments as required. Notwithstanding the provisions
10 of s. 409.915, counties are exempt from contributing toward
11 the cost of this special reimbursement for hospitals serving a
12 disproportionate share of low-income patients.

13 (2) The Agency for Health Care Administration shall
14 use the following actual audited data to determine the
15 Medicaid days and charity care to be used in calculating the
16 disproportionate share payment:

17 (a) The average of the 2001, 2002, and 2003 ~~2000~~,
18 ~~2001~~,--and-~~2002~~ audited disproportionate share data to
19 determine each hospital's Medicaid days and charity care for
20 the 2007-2008 ~~2006-2007~~ state fiscal year.

21 Section 8. Section 409.9112, Florida Statutes, is
22 amended to read:

23 409.9112 Disproportionate share program for regional
24 perinatal intensive care centers.--In addition to the payments
25 made under s. 409.911, the Agency for Health Care
26 Administration shall design and implement a system of making
27 disproportionate share payments to those hospitals that
28 participate in the regional perinatal intensive care center
29 program established pursuant to chapter 383. This system of
30 payments shall conform with federal requirements and shall
31 distribute funds in each fiscal year for which an



1 appropriation is made by making quarterly Medicaid payments.
2 Notwithstanding the provisions of s. 409.915, counties are
3 exempt from contributing toward the cost of this special
4 reimbursement for hospitals serving a disproportionate share
5 of low-income patients. For the state fiscal year 2007-2008
6 2005-2006, the agency shall not distribute moneys under the
7 regional perinatal intensive care centers disproportionate
8 share program.

9 (1) The following formula shall be used by the agency
10 to calculate the total amount earned for hospitals that
11 participate in the regional perinatal intensive care center
12 program:

$$\text{TAE} = \text{HDSP} / \text{THDSP}$$

13
14
15
16 Where:

17 TAE = total amount earned by a regional perinatal
18 intensive care center.

19 HDSP = the prior state fiscal year regional perinatal
20 intensive care center disproportionate share payment to the
21 individual hospital.

22 THDSP = the prior state fiscal year total regional
23 perinatal intensive care center disproportionate share
24 payments to all hospitals.

25
26 (2) The total additional payment for hospitals that
27 participate in the regional perinatal intensive care center
28 program shall be calculated by the agency as follows:

$$\text{TAP} = \text{TAE} \times \text{TA}$$



1 Where:

2 TAP = total additional payment for a regional perinatal
3 intensive care center.

4 TAE = total amount earned by a regional perinatal
5 intensive care center.

6 TA = total appropriation for the regional perinatal
7 intensive care center disproportionate share program.

8
9 (3) In order to receive payments under this section, a
10 hospital must be participating in the regional perinatal
11 intensive care center program pursuant to chapter 383 and must
12 meet the following additional requirements:

13 (a) Agree to conform to all departmental and agency
14 requirements to ensure high quality in the provision of
15 services, including criteria adopted by departmental and
16 agency rule concerning staffing ratios, medical records,
17 standards of care, equipment, space, and such other standards
18 and criteria as the department and agency deem appropriate as
19 specified by rule.

20 (b) Agree to provide information to the department and
21 agency, in a form and manner to be prescribed by rule of the
22 department and agency, concerning the care provided to all
23 patients in neonatal intensive care centers and high-risk
24 maternity care.

25 (c) Agree to accept all patients for neonatal
26 intensive care and high-risk maternity care, regardless of
27 ability to pay, on a functional space-available basis.

28 (d) Agree to develop arrangements with other maternity
29 and neonatal care providers in the hospital's region for the
30 appropriate receipt and transfer of patients in need of
31 specialized maternity and neonatal intensive care services.



1 (e) Agree to establish and provide a developmental
2 evaluation and services program for certain high-risk
3 neonates, as prescribed and defined by rule of the department.

4 (f) Agree to sponsor a program of continuing education
5 in perinatal care for health care professionals within the
6 region of the hospital, as specified by rule.

7 (g) Agree to provide backup and referral services to
8 the department's county health departments and other
9 low-income perinatal providers within the hospital's region,
10 including the development of written agreements between these
11 organizations and the hospital.

12 (h) Agree to arrange for transportation for high-risk
13 obstetrical patients and neonates in need of transfer from the
14 community to the hospital or from the hospital to another more
15 appropriate facility.

16 (4) Hospitals which fail to comply with any of the
17 conditions in subsection (3) or the applicable rules of the
18 department and agency shall not receive any payments under
19 this section until full compliance is achieved. A hospital
20 which is not in compliance in two or more consecutive quarters
21 shall not receive its share of the funds. Any forfeited funds
22 shall be distributed by the remaining participating regional
23 perinatal intensive care center program hospitals.

24 Section 9. Section 409.9113, Florida Statutes, is
25 amended to read:

26 409.9113 Disproportionate share program for teaching
27 hospitals.--In addition to the payments made under ss. 409.911
28 and 409.9112, the Agency for Health Care Administration shall
29 make disproportionate share payments to statutorily defined
30 teaching hospitals for their increased costs associated with
31 medical education programs and for tertiary health care



1 services provided to the indigent. This system of payments
2 shall conform with federal requirements and shall distribute
3 funds in each fiscal year for which an appropriation is made
4 by making quarterly Medicaid payments. Notwithstanding s.
5 409.915, counties are exempt from contributing toward the cost
6 of this special reimbursement for hospitals serving a
7 disproportionate share of low-income patients. For the state
8 fiscal year 2007-2008 ~~2006-2007~~, the agency shall distribute
9 the moneys provided in the General Appropriations Act to
10 statutorily defined teaching hospitals and family practice
11 teaching hospitals under the teaching hospital
12 disproportionate share program. The funds provided for
13 statutorily defined teaching hospitals shall be distributed in
14 the same proportion as the state fiscal year 2003-2004
15 teaching hospital disproportionate share funds were
16 distributed. The funds provided for family practice teaching
17 hospitals shall be distributed equally among family practice
18 teaching hospitals.

19 (1) On or before September 15 of each year, the Agency
20 for Health Care Administration shall calculate an allocation
21 fraction to be used for distributing funds to state statutory
22 teaching hospitals. Subsequent to the end of each quarter of
23 the state fiscal year, the agency shall distribute to each
24 statutory teaching hospital, as defined in s. 408.07, an
25 amount determined by multiplying one-fourth of the funds
26 appropriated for this purpose by the Legislature times such
27 hospital's allocation fraction. The allocation fraction for
28 each such hospital shall be determined by the sum of three
29 primary factors, divided by three. The primary factors are:

30 (a) The number of nationally accredited graduate
31 medical education programs offered by the hospital, including



1 programs accredited by the Accreditation Council for Graduate
2 Medical Education and the combined Internal Medicine and
3 Pediatrics programs acceptable to both the American Board of
4 Internal Medicine and the American Board of Pediatrics at the
5 beginning of the state fiscal year preceding the date on which
6 the allocation fraction is calculated. The numerical value of
7 this factor is the fraction that the hospital represents of
8 the total number of programs, where the total is computed for
9 all state statutory teaching hospitals.

10 (b) The number of full-time equivalent trainees in the
11 hospital, which comprises two components:

12 1. The number of trainees enrolled in nationally
13 accredited graduate medical education programs, as defined in
14 paragraph (a). Full-time equivalents are computed using the
15 fraction of the year during which each trainee is primarily
16 assigned to the given institution, over the state fiscal year
17 preceding the date on which the allocation fraction is
18 calculated. The numerical value of this factor is the fraction
19 that the hospital represents of the total number of full-time
20 equivalent trainees enrolled in accredited graduate programs,
21 where the total is computed for all state statutory teaching
22 hospitals.

23 2. The number of medical students enrolled in
24 accredited colleges of medicine and engaged in clinical
25 activities, including required clinical clerkships and
26 clinical electives. Full-time equivalents are computed using
27 the fraction of the year during which each trainee is
28 primarily assigned to the given institution, over the course
29 of the state fiscal year preceding the date on which the
30 allocation fraction is calculated. The numerical value of this
31 factor is the fraction that the given hospital represents of



1 the total number of full-time equivalent students enrolled in
2 accredited colleges of medicine, where the total is computed
3 for all state statutory teaching hospitals.

4
5 The primary factor for full-time equivalent trainees is
6 computed as the sum of these two components, divided by two.

7 (c) A service index that comprises three components:

8 1. The Agency for Health Care Administration Service
9 Index, computed by applying the standard Service Inventory
10 Scores established by the Agency for Health Care
11 Administration to services offered by the given hospital, as
12 reported on Worksheet A-2 for the last fiscal year reported to
13 the agency before the date on which the allocation fraction is
14 calculated. The numerical value of this factor is the
15 fraction that the given hospital represents of the total
16 Agency for Health Care Administration Service Index values,
17 where the total is computed for all state statutory teaching
18 hospitals.

19 2. A volume-weighted service index, computed by
20 applying the standard Service Inventory Scores established by
21 the Agency for Health Care Administration to the volume of
22 each service, expressed in terms of the standard units of
23 measure reported on Worksheet A-2 for the last fiscal year
24 reported to the agency before the date on which the allocation
25 factor is calculated. The numerical value of this factor is
26 the fraction that the given hospital represents of the total
27 volume-weighted service index values, where the total is
28 computed for all state statutory teaching hospitals.

29 3. Total Medicaid payments to each hospital for direct
30 inpatient and outpatient services during the fiscal year
31 preceding the date on which the allocation factor is



1 calculated. This includes payments made to each hospital for
2 such services by Medicaid prepaid health plans, whether the
3 plan was administered by the hospital or not. The numerical
4 value of this factor is the fraction that each hospital
5 represents of the total of such Medicaid payments, where the
6 total is computed for all state statutory teaching hospitals.

7
8 The primary factor for the service index is computed as the
9 sum of these three components, divided by three.

10 (2) By October 1 of each year, the agency shall use
11 the following formula to calculate the maximum additional
12 disproportionate share payment for statutorily defined
13 teaching hospitals:

$$\text{TAP} = \text{THAF} \times A$$

14
15
16
17 Where:

18 TAP = total additional payment.

19 THAF = teaching hospital allocation factor.

20 A = amount appropriated for a teaching hospital
21 disproportionate share program.

22 Section 10. Section 409.9117, Florida Statutes, is
23 amended to read:

24 409.9117 Primary care disproportionate share
25 program.--For the state fiscal year 2007-2008 ~~2006-2007~~, the
26 agency shall not distribute moneys under the primary care
27 disproportionate share program.

28 (1) If federal funds are available for
29 disproportionate share programs in addition to those otherwise
30 provided by law, there shall be created a primary care
31 disproportionate share program.



(2) The following formula shall be used by the agency to calculate the total amount earned for hospitals that participate in the primary care disproportionate share program:

$$TAE = HDSP/THDSP$$

Where:

TAE = total amount earned by a hospital participating in the primary care disproportionate share program.

HDSP = the prior state fiscal year primary care disproportionate share payment to the individual hospital.

THDSP = the prior state fiscal year total primary care disproportionate share payments to all hospitals.

(3) The total additional payment for hospitals that participate in the primary care disproportionate share program shall be calculated by the agency as follows:

$$TAP = TAE \times TA$$

Where:

TAP = total additional payment for a primary care hospital.

TAE = total amount earned by a primary care hospital.

TA = total appropriation for the primary care disproportionate share program.

(4) In the establishment and funding of this program, the agency shall use the following criteria in addition to those specified in s. 409.911, payments may not be made to a



1 hospital unless the hospital agrees to:

2 (a) Cooperate with a Medicaid prepaid health plan, if
3 one exists in the community.

4 (b) Ensure the availability of primary and specialty
5 care physicians to Medicaid recipients who are not enrolled in
6 a prepaid capitated arrangement and who are in need of access
7 to such physicians.

8 (c) Coordinate and provide primary care services free
9 of charge, except copayments, to all persons with incomes up
10 to 100 percent of the federal poverty level who are not
11 otherwise covered by Medicaid or another program administered
12 by a governmental entity, and to provide such services based
13 on a sliding fee scale to all persons with incomes up to 200
14 percent of the federal poverty level who are not otherwise
15 covered by Medicaid or another program administered by a
16 governmental entity, except that eligibility may be limited to
17 persons who reside within a more limited area, as agreed to by
18 the agency and the hospital.

19 (d) Contract with any federally qualified health
20 center, if one exists within the agreed geopolitical
21 boundaries, concerning the provision of primary care services,
22 in order to guarantee delivery of services in a nonduplicative
23 fashion, and to provide for referral arrangements, privileges,
24 and admissions, as appropriate. The hospital shall agree to
25 provide at an onsite or offsite facility primary care services
26 within 24 hours to which all Medicaid recipients and persons
27 eligible under this paragraph who do not require emergency
28 room services are referred during normal daylight hours.

29 (e) Cooperate with the agency, the county, and other
30 entities to ensure the provision of certain public health
31 services, case management, referral and acceptance of



1 patients, and sharing of epidemiological data, as the agency
2 and the hospital find mutually necessary and desirable to
3 promote and protect the public health within the agreed
4 geopolitical boundaries.

5 (f) In cooperation with the county in which the
6 hospital resides, develop a low-cost, outpatient, prepaid
7 health care program to persons who are not eligible for the
8 Medicaid program, and who reside within the area.

9 (g) Provide inpatient services to residents within the
10 area who are not eligible for Medicaid or Medicare, and who do
11 not have private health insurance, regardless of ability to
12 pay, on the basis of available space, except that nothing
13 shall prevent the hospital from establishing bill collection
14 programs based on ability to pay.

15 (h) Work with the Florida Healthy Kids Corporation,
16 the Florida Health Care Purchasing Cooperative, and business
17 health coalitions, as appropriate, to develop a feasibility
18 study and plan to provide a low-cost comprehensive health
19 insurance plan to persons who reside within the area and who
20 do not have access to such a plan.

21 (i) Work with public health officials and other
22 experts to provide community health education and prevention
23 activities designed to promote healthy lifestyles and
24 appropriate use of health services.

25 (j) Work with the local health council to develop a
26 plan for promoting access to affordable health care services
27 for all persons who reside within the area, including, but not
28 limited to, public health services, primary care services,
29 inpatient services, and affordable health insurance generally.

30
31 Any hospital that fails to comply with any of the provisions



1 of this subsection, or any other contractual condition, may
2 not receive payments under this section until full compliance
3 is achieved.

4 Section 11. Paragraph (b) of subsection (4) of section
5 409.912, Florida Statutes, is amended, and subsections (53)
6 and (54) are added to that section, to read:

7 409.912 Cost-effective purchasing of health care.--The
8 agency shall purchase goods and services for Medicaid
9 recipients in the most cost-effective manner consistent with
10 the delivery of quality medical care. To ensure that medical
11 services are effectively utilized, the agency may, in any
12 case, require a confirmation or second physician's opinion of
13 the correct diagnosis for purposes of authorizing future
14 services under the Medicaid program. This section does not
15 restrict access to emergency services or poststabilization
16 care services as defined in 42 C.F.R. part 438.114. Such
17 confirmation or second opinion shall be rendered in a manner
18 approved by the agency. The agency shall maximize the use of
19 prepaid per capita and prepaid aggregate fixed-sum basis
20 services when appropriate and other alternative service
21 delivery and reimbursement methodologies, including
22 competitive bidding pursuant to s. 287.057, designed to
23 facilitate the cost-effective purchase of a case-managed
24 continuum of care. The agency shall also require providers to
25 minimize the exposure of recipients to the need for acute
26 inpatient, custodial, and other institutional care and the
27 inappropriate or unnecessary use of high-cost services. The
28 agency shall contract with a vendor to monitor and evaluate
29 the clinical practice patterns of providers in order to
30 identify trends that are outside the normal practice patterns
31 of a provider's professional peers or the national guidelines



1 of a provider's professional association. The vendor must be
2 able to provide information and counseling to a provider whose
3 practice patterns are outside the norms, in consultation with
4 the agency, to improve patient care and reduce inappropriate
5 utilization. The agency may mandate prior authorization, drug
6 therapy management, or disease management participation for
7 certain populations of Medicaid beneficiaries, certain drug
8 classes, or particular drugs to prevent fraud, abuse, overuse,
9 and possible dangerous drug interactions. The Pharmaceutical
10 and Therapeutics Committee shall make recommendations to the
11 agency on drugs for which prior authorization is required. The
12 agency shall inform the Pharmaceutical and Therapeutics
13 Committee of its decisions regarding drugs subject to prior
14 authorization. The agency is authorized to limit the entities
15 it contracts with or enrolls as Medicaid providers by
16 developing a provider network through provider credentialing.
17 The agency may competitively bid single-source-provider
18 contracts if procurement of goods or services results in
19 demonstrated cost savings to the state without limiting access
20 to care. The agency may limit its network based on the
21 assessment of beneficiary access to care, provider
22 availability, provider quality standards, time and distance
23 standards for access to care, the cultural competence of the
24 provider network, demographic characteristics of Medicaid
25 beneficiaries, practice and provider-to-beneficiary standards,
26 appointment wait times, beneficiary use of services, provider
27 turnover, provider profiling, provider licensure history,
28 previous program integrity investigations and findings, peer
29 review, provider Medicaid policy and billing compliance
30 records, clinical and medical record audits, and other
31 factors. Providers shall not be entitled to enrollment in the



1 Medicaid provider network. The agency shall determine
2 instances in which allowing Medicaid beneficiaries to purchase
3 durable medical equipment and other goods is less expensive to
4 the Medicaid program than long-term rental of the equipment or
5 goods. The agency may establish rules to facilitate purchases
6 in lieu of long-term rentals in order to protect against fraud
7 and abuse in the Medicaid program as defined in s. 409.913.
8 The agency may seek federal waivers necessary to administer
9 these policies.

10 (4) The agency may contract with:

11 (b) An entity that is providing comprehensive
12 behavioral health care services to certain Medicaid recipients
13 through a capitated, prepaid arrangement pursuant to the
14 federal waiver provided for by s. 409.905(5). Such an entity
15 must be licensed under chapter 624, chapter 636, or chapter
16 641 and must possess the clinical systems and operational
17 competence to manage risk and provide comprehensive behavioral
18 health care to Medicaid recipients. As used in this paragraph,
19 the term "comprehensive behavioral health care services" means
20 covered mental health and substance abuse treatment services
21 that are available to Medicaid recipients. The secretary of
22 the Department of Children and Family Services shall approve
23 provisions of procurements related to children in the
24 department's care or custody prior to enrolling such children
25 in a prepaid behavioral health plan. Any contract awarded
26 under this paragraph must be competitively procured. In
27 developing the behavioral health care prepaid plan procurement
28 document, the agency shall ensure that the procurement
29 document requires the contractor to develop and implement a
30 plan to ensure compliance with s. 394.4574 related to services
31 provided to residents of licensed assisted living facilities



1 that hold a limited mental health license. Except as provided
2 in subparagraph 8., and except in counties where the Medicaid
3 managed care pilot program is authorized pursuant to s.
4 409.91211, the agency shall seek federal approval to contract
5 with a single entity meeting these requirements to provide
6 comprehensive behavioral health care services to all Medicaid
7 recipients not enrolled in a Medicaid managed care plan
8 authorized under s. 409.91211 or a Medicaid health maintenance
9 organization in an AHCA area. In an AHCA area where the
10 Medicaid managed care pilot program is authorized pursuant to
11 s. 409.91211 in one or more counties, the agency may procure a
12 contract with a single entity to serve the remaining counties
13 as an AHCA area or the remaining counties may be included with
14 an adjacent AHCA area and shall be subject to this paragraph.
15 Each entity must offer sufficient choice of providers in its
16 network to ensure recipient access to care and the opportunity
17 to select a provider with whom they are satisfied. The network
18 shall include all public mental health hospitals. To ensure
19 unimpaired access to behavioral health care services by
20 Medicaid recipients, all contracts issued pursuant to this
21 paragraph shall require each managed care company to report to
22 the agency on an annual basis the percentage of the capitation
23 paid to the managed care company which is expended for the
24 provision of behavioral health care services. 80-percent-of
25 the-capitation-paid-to-the-managed-care-plan,-including-health
26 maintenance-organizations,-to-be-expended-for-the-provision-of
27 behavioral-health-care-services.-In-the-event-the-managed-care
28 plan-expends-less-than-80-percent-of-the-capitation-paid
29 pursuant-to-this-paragraph-for-the-provision-of-behavioral
30 health-care-services,-the-difference-shall-be-retained-to-the
31 agency. The agency shall provide the managed care plan with a



1 certification letter indicating the amount of capitation paid
2 during each calendar year for the provision of behavioral
3 health care services pursuant to this section. The agency may
4 reimburse for substance abuse treatment services on a
5 fee-for-service basis until the agency finds that adequate
6 funds are available for capitated, prepaid arrangements.

7 ~~1.---By January 1, 2001, the agency shall modify the~~
8 ~~contracts with the entities providing comprehensive inpatient~~
9 ~~and outpatient mental health care services to Medicaid~~
10 ~~recipients in Hillsborough, Highlands, Hardee, Manatee, and~~
11 ~~Polk Counties, to include substance abuse treatment services.~~

12 1.2- By July 1, 2003, the agency and the Department of
13 Children and Family Services shall execute a written agreement
14 that requires collaboration and joint development of all
15 policy, budgets, procurement documents, contracts, and
16 monitoring plans that have an impact on the state and Medicaid
17 community mental health and targeted case management programs.

18 2.3- Except as provided in subparagraph 7. 8-, by July
19 1, 2006, the agency and the Department of Children and Family
20 Services shall contract with managed care entities in each
21 AHCA area except area 6 or arrange to provide comprehensive
22 inpatient and outpatient mental health and substance abuse
23 services through capitated prepaid arrangements to all
24 Medicaid recipients who are eligible to participate in such
25 plans under federal law and regulation. In AHCA areas where
26 eligible individuals number less than 150,000, the agency
27 shall contract with a single managed care plan to provide
28 comprehensive behavioral health services to all recipients who
29 are not enrolled in a Medicaid health maintenance organization
30 or a Medicaid capitated managed care plan authorized under s.
31 409.91211. The agency may contract with more than one



1 comprehensive behavioral health provider to provide care to
2 recipients who are not enrolled in a Medicaid capitated
3 managed care plan authorized under s. 409.91211 or a Medicaid
4 health maintenance organization in AHCA areas where the
5 eligible population exceeds 150,000. In an AHCA area where the
6 Medicaid managed care pilot program is authorized pursuant to
7 s. 409.91211 in one or more counties, the agency may procure a
8 contract with a single entity to serve the remaining counties
9 as an AHCA area or the remaining counties may be included with
10 an adjacent AHCA area and shall be subject to this paragraph.
11 Contracts for comprehensive behavioral health providers
12 awarded pursuant to this section shall be competitively
13 procured. Both for-profit and not-for-profit corporations
14 shall be eligible to compete. Managed care plans contracting
15 with the agency under subsection (3) shall provide and receive
16 payment for the same comprehensive behavioral health benefits
17 as provided in AHCA rules, including handbooks incorporated by
18 reference. In AHCA area 11, the agency shall contract with at
19 least two comprehensive behavioral health care providers to
20 provide behavioral health care to recipients in that area who
21 are enrolled in, or assigned to, the MediPass program. One of
22 the behavioral health care contracts shall be with the
23 existing provider service network pilot project, as described
24 in paragraph (d), for the purpose of demonstrating the
25 cost-effectiveness of the provision of quality mental health
26 services through a public hospital-operated managed care
27 model. Payment shall be at an agreed-upon capitated rate to
28 ensure cost savings. Of the recipients in area 11 who are
29 assigned to MediPass under the provisions of s.
30 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled
31 recipients shall be assigned to the existing provider service



1 network in area 11 for their behavioral care.

2 3.4- By October 1, 2003, the agency and the department
3 shall submit a plan to the Governor, the President of the
4 Senate, and the Speaker of the House of Representatives which
5 provides for the full implementation of capitated prepaid
6 behavioral health care in all areas of the state.

7 a. Implementation shall begin in 2003 in those AHCA
8 areas of the state where the agency is able to establish
9 sufficient capitation rates.

10 b. If the agency determines that the proposed
11 capitation rate in any area is insufficient to provide
12 appropriate services, the agency may adjust the capitation
13 rate to ensure that care will be available. The agency and the
14 department may use existing general revenue to address any
15 additional required match but may not over-obligate existing
16 funds on an annualized basis.

17 c. Subject to any limitations provided for in the
18 General Appropriations Act, the agency, in compliance with
19 appropriate federal authorization, shall develop policies and
20 procedures that allow for certification of local and state
21 funds.

22 4.5- Children residing in a statewide inpatient
23 psychiatric program, or in a Department of Juvenile Justice or
24 a Department of Children and Family Services residential
25 program approved as a Medicaid behavioral health overlay
26 services provider shall not be included in a behavioral health
27 care prepaid health plan or any other Medicaid managed care
28 plan pursuant to this paragraph.

29 5.6- In converting to a prepaid system of delivery,
30 the agency shall in its procurement document require an entity
31 providing only comprehensive behavioral health care services



1 to prevent the displacement of indigent care patients by
2 enrollees in the Medicaid prepaid health plan providing
3 behavioral health care services from facilities receiving
4 state funding to provide indigent behavioral health care, to
5 facilities licensed under chapter 395 which do not receive
6 state funding for indigent behavioral health care, or
7 reimburse the unsubsidized facility for the cost of behavioral
8 health care provided to the displaced indigent care patient.

9 6.7- Traditional community mental health providers
10 under contract with the Department of Children and Family
11 Services pursuant to part IV of chapter 394, child welfare
12 providers under contract with the Department of Children and
13 Family Services in areas 1 and 6, and inpatient mental health
14 providers licensed pursuant to chapter 395 must be offered an
15 opportunity to accept or decline a contract to participate in
16 any provider network for prepaid behavioral health services.

17 7.8- For fiscal year 2004-2005, all Medicaid eligible
18 children, except children in areas 1 and 6, whose cases are
19 open for child welfare services in the HomeSafeNet system,
20 shall be enrolled in MediPass or in Medicaid fee-for-service
21 and all their behavioral health care services including
22 inpatient, outpatient psychiatric, community mental health,
23 and case management shall be reimbursed on a fee-for-service
24 basis. Beginning July 1, 2005, such children, who are open for
25 child welfare services in the HomeSafeNet system, shall
26 receive their behavioral health care services through a
27 specialty prepaid plan operated by community-based lead
28 agencies either through a single agency or formal agreements
29 among several agencies. The specialty prepaid plan must result
30 in savings to the state comparable to savings achieved in
31 other Medicaid managed care and prepaid programs. Such plan



1 must provide mechanisms to maximize state and local revenues.
2 The specialty prepaid plan shall be developed by the agency
3 and the Department of Children and Family Services. The agency
4 is authorized to seek any federal waivers to implement this
5 initiative. Medicaid-eligible children whose cases are open
6 for child welfare services in the HomeSafeNet system and who
7 reside in AHCA area 10 shall be exempt from the specialty
8 prepaid plan upon the development of a service delivery
9 mechanism for area 10 children as specified in s.
10 409.91211(3)(dd).

11 8. The agency may implement a methodology based on
12 encounter data to develop capitation rates for prepaid health
13 plans contracted to provide behavioral health services
14 pursuant to this paragraph and for health maintenance
15 organizations contracted to provide behavioral health services
16 pursuant to subsection (3). For contracts beginning in the
17 first state fiscal year in which an encounter-based system is
18 used in any agency service area, 90 percent of the capitation
19 rate shall be based on the agency's fee-for-service
20 methodology and 10 percent shall be based on the behavioral
21 health encounter data system methodology. For contracts
22 beginning in the second and third state fiscal years in which
23 an encounter-based system is used in any agency service area,
24 no less than 75 percent of the capitation rate shall be based
25 on the agency's fee-for-service methodology and not more than
26 25 percent shall be based on the behavioral health encounter
27 data system methodology. If the agency applies an encounter
28 data system methodology in agency service areas 1 and 6 in
29 state fiscal year 2007-2008, the 2007-2008 state fiscal year
30 shall be considered the first year of the implementation.

31 (53)(a) A pharmacist may not dispense a drug for



1 immunosuppressive therapy following transplant unless the drug
2 is the specific formulation and manufactured by the specific
3 manufacturer as prescribed by the patient's physician.

4 (b) A pharmacist may substitute a drug product that is
5 generically equivalent for immunosuppressive therapy following
6 transplant only if, before making the substitution, the
7 pharmacist obtains a signed authorization from the prescribing
8 physician.

9 (54) Before seeking an amendment to the state plan for
10 purposes of implementing programs authorized by the Deficit
11 Reduction Act of 2005, the agency shall notify the
12 Legislature.

13 Section 12. Paragraph (dd) of subsection (3) of
14 section 409.91211, Florida Statutes, is amended to read:

15 409.91211 Medicaid managed care pilot program.--

16 (3) The agency shall have the following powers,
17 duties, and responsibilities with respect to the pilot
18 program:

19 (dd) To implement develop-and-recommend service
20 delivery mechanisms within capitated managed care plans to
21 provide Medicaid services as specified in ss. 409.905 and
22 409.906 to Medicaid-eligible children who are open for child
23 welfare services in the HomeSafeNet system in-foster-care.
24 These services must be coordinated with community-based care
25 providers as specified in s. 409.1671 s.-409-1675, where
26 available, and be sufficient to meet the medical,
27 developmental, behavioral, and emotional needs of these
28 children. These service-delivery mechanisms must be
29 implemented no later than July 1, 2008, in AHCA area 10 in
30 order for the children in AHCA area 10 to remain exempt from
31 the statewide plan under s. 409.912(4)(b)7.



1 Section 13. Subsection (13) of section 409.9122,
2 Florida Statutes, is amended to read:

3 409.9122 Mandatory Medicaid managed care enrollment;
4 programs and procedures.--

5 (13) Effective July 1, 2003, the agency shall adjust
6 the enrollee assignment process of Medicaid managed prepaid
7 health plans for those Medicaid managed prepaid plans
8 operating in Miami-Dade County which have executed a contract
9 with the agency for a minimum of 8 consecutive years in order
10 for the Medicaid managed prepaid plan to maintain a minimum
11 enrollment level of 15,000 members per month. When assigning
12 enrollees pursuant to this subsection, the agency shall give
13 priority to providers that initially qualified under this
14 subsection until such providers reach and maintain an
15 enrollment level of 15,000 members per month. A prepaid health
16 plan that has a statewide Medicaid enrollment of 25,000 or
17 more members is not eligible for enrollee assignments under
18 this subsection.

19 Section 14. Subsection (2) of section 409.9124,
20 Florida Statutes, is amended, and subsections (7) and (8) are
21 added to that section, to read:

22 409.9124 Managed care reimbursement.--The agency shall
23 develop and adopt by rule a methodology for reimbursing
24 managed care plans.

25 (2) Each year prior to establishing new managed care
26 rates, the agency shall review all prior year adjustments for
27 changes in trend, and shall reduce or eliminate those
28 adjustments which are not reasonable and which reflect
29 policies or programs which are not in effect. In addition, the
30 agency shall apply only those policy reductions applicable to
31 the fiscal year for which the rates are being set, which can



1 be accurately estimated and verified by an independent
2 actuary, and which have been implemented prior to or will be
3 implemented during the fiscal year. ~~The agency shall pay rates~~
4 ~~at per member, per month averages that do not exceed the~~
5 ~~amounts allowed for in the General Appropriations Act~~
6 ~~applicable to the fiscal year for which the rates will be in~~
7 ~~effect.~~

8 (7) Effective January 1, 2008, the agency shall amend
9 its rule pertaining to the methodology for reimbursing managed
10 care plans created pursuant to this section, and for each
11 agency area and eligibility category, the percentage of the
12 payment limit shall be increased by 0.5 percentage point from
13 the percentage of the payment limit specified in the 2006-2007
14 rule. The percentage of the payment limit may not exceed 100
15 percent for any agency area or eligibility category.

16 (8) Effective January 1, 2009, the agency shall amend
17 its rule pertaining to the methodology for reimbursing managed
18 care plans created pursuant to this section, and for each
19 agency area and eligibility category, the percentage of the
20 payment limit shall be increased by 1.5 percentage points from
21 the percentage of the payment limit specified in the 2007-2008
22 rule. The percentage of the payment limit may not exceed 100
23 percent for any agency area or eligibility category.

24 Section 15. Subsection (36) of section 409.913,
25 Florida Statutes, is amended to read:

26 409.913 Oversight of the integrity of the Medicaid
27 program.--The agency shall operate a program to oversee the
28 activities of Florida Medicaid recipients, and providers and
29 their representatives, to ensure that fraudulent and abusive
30 behavior and neglect of recipients occur to the minimum extent
31 possible, and to recover overpayments and impose sanctions as



1 appropriate. Beginning January 1, 2003, and each year
2 thereafter, the agency and the Medicaid Fraud Control Unit of
3 the Department of Legal Affairs shall submit a joint report to
4 the Legislature documenting the effectiveness of the state's
5 efforts to control Medicaid fraud and abuse and to recover
6 Medicaid overpayments during the previous fiscal year. The
7 report must describe the number of cases opened and
8 investigated each year; the sources of the cases opened; the
9 disposition of the cases closed each year; the amount of
10 overpayments alleged in preliminary and final audit letters;
11 the number and amount of fines or penalties imposed; any
12 reductions in overpayment amounts negotiated in settlement
13 agreements or by other means; the amount of final agency
14 determinations of overpayments; the amount deducted from
15 federal claiming as a result of overpayments; the amount of
16 overpayments recovered each year; the amount of cost of
17 investigation recovered each year; the average length of time
18 to collect from the time the case was opened until the
19 overpayment is paid in full; the amount determined as
20 uncollectible and the portion of the uncollectible amount
21 subsequently reclaimed from the Federal Government; the number
22 of providers, by type, that are terminated from participation
23 in the Medicaid program as a result of fraud and abuse; and
24 all costs associated with discovering and prosecuting cases of
25 Medicaid overpayments and making recoveries in such cases. The
26 report must also document actions taken to prevent
27 overpayments and the number of providers prevented from
28 enrolling in or reenrolling in the Medicaid program as a
29 result of documented Medicaid fraud and abuse and must
30 recommend changes necessary to prevent or recover
31 overpayments.



1 (36) The agency shall provide to each Medicaid
2 recipient or his or her representative an explanation of
3 benefits in the form of a letter that is mailed to the most
4 recent address of the recipient on the record with the
5 Department of Children and Family Services. The explanation of
6 benefits must include the patient's name, the name of the
7 health care provider and the address of the location where the
8 service was provided, a description of all services billed to
9 Medicaid in terminology that should be understood by a
10 reasonable person, and information on how to report
11 inappropriate or incorrect billing to the agency or other law
12 enforcement entities for review or investigation. The
13 explanation of benefits may not be mailed for Medicaid
14 independent laboratory services as described in s. 409.905(7)
15 or for the Medicaid certified match services as described in
16 ss. 409.9071 and 1011.70.

17 Section 16. Paragraph (a) of subsection (9) of section
18 430.705, Florida Statutes, is amended to read:

19 430.705 Implementation of the long-term care community
20 diversion pilot projects.--

21 (9) Community diversion pilot projects must:

22 (a) Provide services for participants that are of
23 sufficient quality, quantity, type, and duration to prevent or
24 delay nursing facility placement. Services shall include
25 hospice care by a licensed hospice.

26 Section 17. Present subsections (3) and (4) of section
27 458.319, Florida Statutes, are redesignated as subsections (4)
28 and (5), respectively, and a new subsection (3) is added to
29 that section, to read:

30 458.319 Renewal of license.--

31 (3) The Department of Health shall waive the biennial



license renewal fee for up to 10,000 allopathic or osteopathic physicians, in the aggregate, who have a valid, active license to practice under this chapter or chapter 459; whose primary practice address, as reported under s. 456.041, is located within the state; and who submit to the department, prior to the applicable license renewal date, a sworn affidavit that the physician is prescribing medications exclusively through the use of electronic prescribing software at the physician's primary practice address. For purposes of this subsection, the term "electronic prescribing software" means, at a minimum, software that electronically generates and securely transmits, in real time, a patient prescription to a pharmacy. The department may adopt rules necessary to implement this subsection. This subsection expires July 1, 2008.

Section 18. Section 459.0092, Florida Statutes, is amended to read:

459.0092 Fees.--

(1) The board shall set fees according to the following schedule:

(a)~~(1)~~ The fee for application or certification pursuant to ss. 459.007, 459.0075, and 459.0077 shall not exceed \$500.

(b)~~(2)~~ The fee for application and examination pursuant to s. 459.006 shall not exceed \$175 plus the actual per applicant cost to the department for purchase of the examination from the National Board of Osteopathic Medical Examiners or a similar national organization.

(c)~~(3)~~ The fee for biennial renewal of licensure or certification shall not exceed \$500.

(2) The Department of Health shall waive the biennial license renewal fee for up to 10,000 allopathic or osteopathic



1 physicians, in the aggregate, who have a valid, active license
2 to practice under chapter 458 or this chapter; whose primary
3 practice address, as reported under s. 456.041, is located
4 within the state; and who submit to the department, prior to
5 the applicable license renewal date, a sworn affidavit that
6 the physician is prescribing medications exclusively through
7 the use of electronic prescribing software at the physician's
8 primary practice address. For purposes of this subsection, the
9 term "electronic prescribing software" means, at a minimum,
10 software that electronically generates and securely transmits,
11 in real time, a patient prescription to a pharmacy. The
12 department may adopt rules necessary to implement this
13 subsection. This subsection expires July 1, 2008.

14 Section 19. This act shall take effect July 1, 2007.

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete everything before the enacting clause

21 and insert:

22 A bill to be entitled

23 An act relating to health care; amending s.
24 381.0302, F.S.; authorizing the Department of
25 Health to provide loan repayment assistance and
26 travel and relocation reimbursement to dentists
27 who agree to serve 2 years in the Florida
28 Health Services Corps; requiring that financial
29 penalties for noncompliance with requirements
30 for participating in the corps be deposited
31 into the Administrative Trust Fund; deleting



1 provisions requiring the deposit of moneys into
2 the Florida Health Services Corps Trust Fund;
3 amending s. 394.9082, F.S.; conforming a
4 cross-reference; amending s. 409.905, F.S.;
5 revising circumstances under which the Agency
6 for Health Care Administration adjusts a
7 hospital's inpatient per diem rate under the
8 Medicaid program; amending s. 409.906, F.S.;
9 authorizing the Agency for Health Care
10 Administration to pay for psychiatric inpatient
11 hospital care to certain persons in certain
12 treatment facilities or specialty hospitals;
13 authorizing the agency to pay for services
14 provided by an anesthesiologist assistant;
15 providing for reimbursement; repealing s.
16 409.9061, F.S., relating to the agency
17 contracting with statewide laboratory services;
18 amending s. 409.908, F.S.; deleting the
19 provision that authorizes the agency to amend
20 the Medicaid plan with regard to change of
21 ownership or of the licensed operator of a
22 nursing home; deleting the provision that
23 prohibits Medicaid from making payment toward
24 deductibles and coinsurance for services not
25 covered by Medicaid; revising the calculation
26 for Medicaid payments for Nursing Home Medicare
27 part A coinsurance; limiting Medicaid payments
28 for general hospital inpatient services to the
29 Medicare deductible per spell of illness and
30 coinsurance; amending s. 409.911, F.S.;
31 revising the share data used to calculate the



disproportionate share payments to hospitals;
amending s. 409.9112, F.S.; revising the time
period during which the agency is prohibited
from distributing disproportionate share
payments to regional perinatal intensive care
centers; amending s. 409.9113, F.S.; requiring
the agency to distribute moneys provided in the
General Appropriations Act to statutorily
defined teaching hospitals and family practice
teaching hospitals under the teaching hospital
disproportionate share program for the
2007-2008 fiscal year; amending s. 409.9117,
F.S.; prohibiting the agency from distributing
moneys under the primary care disproportionate
share program for the 2007-2008 fiscal year;
amending s. 409.912, F.S.; revising contract
requirements for behavioral health care
services for Medicaid recipients; exempting
certain Medicaid-eligible children from the
specialty prepaid plan upon the development of
a service delivery system for such children;
authorizing the agency to implement a
methodology to develop capitation rates for
prepaid health plans contracted to provide
behavioral health services; prohibiting a
pharmacist from dispensing a drug for
immunosuppressive therapy; providing an
exception; authorizing a pharmacist to
substitute certain drugs for immunosuppressive
therapy under certain conditions; requiring
that the agency notify the Legislature before



1 seeking an amendment to the state plan in order
2 to implement programs authorized by the Deficit
3 Reduction Act of 2005; amending s. 409.91211,
4 F.S.; requiring the agency to implement
5 delivery mechanisms to provide Medicaid
6 services to Medicaid-eligible children who are
7 open for child welfare services in the
8 HomeSafeNet system; requiring that the services
9 be sufficient to meet the medical,
10 developmental, behavioral, and emotional needs
11 of the children; directing the agency to
12 implement the service delivery by a specified
13 date; amending s. 409.9122, F.S.; requiring
14 that the agency give priority to certain
15 prepaid health plans when assigning enrollees
16 under the Medicaid program; limiting the
17 eligibility of certain providers to contract
18 with the agency; amending s. 409.9124, F.S.;
19 revising the methodology used by the agency in
20 reimbursing managed care plans; specifying
21 certain percentage increases in payment limits;
22 amending s. 409.913, F.S.; prohibiting the
23 explanation of certain Medicaid benefits from
24 being mailed; amending s. 430.705, F.S.;
25 including hospice care within the long-term
26 care community diversion pilot projects;
27 amending ss. 458.319 and 459.0092, F.S.;
28 requiring the Department of Health to waive the
29 biennial license renewal fee for up to a
30 specified number of allopathic or osteopathic
31 physicians; providing conditions for such

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1 waiver; authorizing the department to adopt
2 rules; providing for future expiration;
3 providing an effective date.
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The Conference Committee Amendment for CS/SB 1124 relating to Home and Community Based Services for Persons with Developmental Disabilities:

- Amends s 393.0661 (3) as follows:
 - Directs the Agency for Health Care Administration in consult with the Agency for Persons with Disabilities to seek federal approval and implement a Four Tiered Waiver System for clients in the developmental disabilities and family and supported living waiver programs.
 - Establishes criteria and dollar caps to define the four tiers of the new waiver system summarized as follows:
 - Tier One – No cap on expenditures. Limited to persons with intensive medical or adaptive needs and that are essential for avoiding institutionalization, or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others.
 - Tier Two - \$55,000 per client annual cap - Limited to persons who have high cost residential facility and residential habilitation service needs or supported living service needs.
 - Tier Three - \$35,000 per client annual cap - Limited to persons who require lower cost residential placements, independent or supported living situations and persons who live in their family home.
 - Tier Four - \$14,782 per client annual cap – Limited to persons already enrolled in the Family and Supported Living waiver which includes independent living, supported living or family home living situations.
 - Directs the Agency for Persons with Disabilities to seek a federal waiver to provide a consumer-directed option which corresponds to the funding levels in each of the waiver tiers.
 - Provides for a phased in implementation of the four-tiered waiver system beginning with tiers one, three, and four and followed by tier two.
 - Provides for deletions, changes, and limitations to specific services in federal waiver programs administered by the Agency for Persons with Disabilities.
 - Authorizes the Agency for Persons with Disabilities to extend current support plans for clients receiving services for one year and provides for certain exceptions for clients who have a substantial change in circumstances.
 - Deletes obsolete language in existing s.393.0661 (3) related to adoption of certain emergency rules.

House

[illegible]

(1) The redesign of the home and community-based services system shall include, at a minimum, all actions necessary to achieve an appropriate rate structure, client



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1 choice within a specified service package, appropriate
2 assessment strategies, an efficient billing process that
3 contains reconciliation and monitoring components, a redefined
4 role for support coordinators that avoids potential conflicts
5 of interest, and ensures that family/client budgets are linked
6 to levels of need.

7 (a) The agency shall use an assessment instrument that
8 is reliable and valid. The agency may contract with an
9 external vendor or may use support coordinators to complete
10 client assessments if it develops sufficient safeguards and
11 training to ensure ongoing inter-rater reliability.

12 (b) The agency, with the concurrence of the Agency for
13 Health Care Administration, may contract for the determination
14 of medical necessity and establishment of individual budgets.

15 (2) A provider of services rendered to persons with
16 developmental disabilities pursuant to a federally approved
17 waiver shall be reimbursed according to a rate methodology
18 based upon an analysis of the expenditure history and
19 prospective costs of providers participating in the waiver
20 program, or under any other methodology developed by the
21 Agency for Health Care Administration, in consultation with
22 the Agency for Persons with Disabilities, and approved by the
23 Federal Government in accordance with the waiver.

24 (3) The Agency for Health Care Administration, in
25 consultation with the agency, shall seek federal approval and
26 implement a four-tiered waiver system to serve clients with
27 developmental disabilities in the developmental disabilities
28 and family and supported living waivers. The agency shall
29 assign all clients receiving services through the
30 developmental disabilities waiver to a tier based on a valid
31 assessment instrument, client characteristics, and other



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1 appropriate assessment methods. All services covered under the
2 current developmental disabilities waiver shall be available
3 to all clients in all tiers where appropriate, except as
4 otherwise provided in this subsection or in the General
5 Appropriations Act.

6 (a) Tier one shall be limited to clients who have
7 service needs that cannot be met in Tier two, three, or four
8 for intensive medical or adaptive needs and that are essential
9 for avoiding institutionalization, or who possess behavioral
10 problems that are exceptional in intensity, duration, or
11 frequency and present a substantial risk of harm to themselves
12 or others.

13 (b) Tier two shall be limited to clients whose service
14 needs include a licensed residential facility and greater than
15 5 hours per day in residential habilitation services or
16 clients in supported living who receive greater than 6 hours a
17 day of in-home support services. Total annual expenditures
18 under tier two may not exceed \$55,000 per client each year.

19 (c) Tier three shall include, but is not limited to,
20 clients requiring residential placements, clients in
21 independent or supported living situations, and clients who
22 live in their family home. Total annual expenditures under
23 tier three may not exceed \$35,000 per client each year.

24 (d) Tier four is the family and supported living
25 waiver. Tier four shall include, but is not limited to,
26 clients in independent or supported living situations and
27 clients who live in their family home. An increase to the
28 number of services available to clients in this tier shall not
29 take effect prior to July 1, 2008. Total annual expenditures
30 under tier four may not exceed \$14,792 per client each year.

31 (e) The Agency for Health Care Administration shall



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1 also seek federal approval to provide a consumer-directed
2 option for persons with developmental disabilities which
3 corresponds to the funding levels in each of the waiver tiers.
4 The agency shall implement the four-tiered waiver system
5 beginning with tiers one, three, and four and followed by tier
6 two. The agency and the Agency for Health Care Administration
7 may adopt any rules necessary to administer this subsection.

8 (f) The agency shall seek federal waivers and amend
9 contracts as necessary to make changes to services defined in
10 federal waiver programs administered by the agency as follows:

11 1. Supported living coaching services shall not exceed
12 20 hours per month for persons who also receive in-home
13 support services.

14 2. Limited support coordination services shall be the
15 only type of support coordination service provided to persons
16 under the age of 18 who live in the family home.

17 3. Personal care assistance services shall be limited
18 to no more than 180 hours per calendar month and shall not
19 include rate modifiers. Additional hours may be authorized
20 only if a substantial change in circumstances occurs for the
21 individual.

22 4. Residential habilitation services shall be limited
23 to 8 hours per day. Additional hours may be authorized for
24 persons who have intensive medical or adaptive needs and if
25 such hours are essential for avoiding institutionalization, or
26 for persons who possess behavioral problems that are
27 exceptional in intensity, duration, or frequency and present a
28 substantial risk of harming themselves or others. This
29 restriction shall be in effect until the four-tiered waiver
30 system is fully implemented.

31 5. Chore, nonresidential support services and



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1 homemaker services shall be eliminated. The agency shall
2 expand the definition of in-home support services to enable
3 the provider of the service to include activities previously
4 provided in these eliminated services.

5 6. Massage therapy and psychological assessment
6 services shall be eliminated.

7 7. The agency shall conduct supplemental cost plan
8 reviews to verify the medical necessity of authorized services
9 for plans that have increased by more than 8 percent during
10 either of the two preceding fiscal years.

11 8. The agency shall implement a consolidated
12 residential habilitation rate structure to increase savings to
13 the state through a more cost-effective payment method and
14 establish uniform rates for intensive behavioral residential
15 habilitation services.

16 9. Pending federal approval, the agency is authorized
17 to extend current support plans for clients receiving services
18 under Medicaid waivers for 1 year beginning July 1, 2007, or
19 from the date approved, whichever is later. Clients who have a
20 substantial change in circumstances which threatens their
21 health and safety may be reassessed during this year in order
22 to determine the necessity for a change in their support plan.

23 ~~{3}--Pending the adoption of rate methodologies~~
24 ~~pursuant to nonemergency rulemaking under s. 120.54, the~~
25 ~~Agency for Health Care Administration may, at any time, adopt~~
26 ~~emergency rules under s. 120.54(4) in order to comply with~~
27 ~~subsection (4). In adopting such emergency rules, the agency~~
28 ~~need not make the findings required by s. 120.54(4)(a), and~~
29 ~~such rules shall be exempt from time limitations provided in~~
30 ~~s. 120.54(4)(e) and shall remain in effect until replaced by~~
31 ~~another emergency rule or the nonemergency adoption of the~~



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1 ~~rate-methodology-~~

2 (4) Nothing in this section or in any administrative
3 rule shall be construed to prevent or limit the Agency for
4 Health Care Administration, in consultation with the Agency
5 for Persons with Disabilities, from adjusting fees,
6 reimbursement rates, lengths of stay, number of visits, or
7 number of services, or from limiting enrollment, or making any
8 other adjustment necessary to comply with the availability of
9 moneys and any limitations or directions provided for in the
10 General Appropriations Act.

11 (5) The Agency for Persons with Disabilities shall
12 submit quarterly status reports to the Executive Office of the
13 Governor, the chair of the Senate Ways and Means Committee or
14 its successor, and the chair of the House Fiscal Council or
15 its successor regarding the financial status of home and
16 community-based services, including the number of enrolled
17 individuals who are receiving services through one or more
18 programs; the number of individuals who have requested
19 services who are not enrolled but who are receiving services
20 through one or more programs, with a description indicating
21 the programs from which the individual is receiving services;
22 the number of individuals who have refused an offer of
23 services but who choose to remain on the list of individuals
24 waiting for services; the number of individuals who have
25 requested services but who are receiving no services; a
26 frequency distribution indicating the length of time
27 individuals have been waiting for services; and information
28 concerning the actual and projected costs compared to the
29 amount of the appropriation available to the program and any
30 projected surpluses or deficits. If at any time an analysis by
31 the agency, in consultation with the Agency for Health Care



1 Administration, indicates that the cost of services is
2 expected to exceed the amount appropriated, the agency shall
3 submit a plan in accordance with subsection (4) to the
4 Executive Office of the Governor, the chair of Senate Ways and
5 Means Committee or its successor, and the chair of the House
6 Fiscal Council or its successor to remain within the amount
7 appropriated. The agency shall work with the Agency for Health
8 Care Administration to implement the plan so as to remain
9 within the appropriation.

10 Section 2. This act shall take effect July 1, 2007.

11
12
13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

16
17 and insert:

18 A bill to be entitled

19 An act relating to home and community-based
20 services for persons with developmental
21 disabilities; amending s. 393.0661, F.S.;
22 requiring the Agency for Health Care
23 Administration, in consultation with the Agency
24 for Persons with Disabilities, to seek federal
25 approval and implement a four-tiered waiver
26 system for the purpose of serving clients with
27 developmental disabilities; providing
28 requirements and limitations with respect to
29 each tier; authorizing the Agency for Health
30 Care Administration and the Agency for Persons
31 with Disabilities to adopt rules; requiring the



1 Agency for Persons with Disabilities to seek
2 federal waivers and amend contracts in order to
3 implement the waiver system; providing
4 requirements for changes to various services;
5 deleting authorization for the Agency for
6 Health Care Administration to adopt certain
7 emergency rules; providing an effective date.

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The Conference Committee Amendment for CS/SB 1126 relating to Tobacco Education and Prevention:

- Creates s. 381.84 to implement s. 27, Art. X of the Florida Constitution, requiring funding of a Comprehensive Statewide Tobacco Education and Prevention Program.
- Requires the state to create a comprehensive, statewide program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.
- Specifies that the program will consist of the following components:
 - A counter-marketing and advertising campaign and a cyberspace resource center;
 - Cessation, counseling, and treatment programs;
 - Surveillance of behaviors, attitudes, and outcomes related to tobacco and evaluation of program components;
 - Youth school programs;
 - Community-based programs that include chronic disease prevention;
 - Training of health care practitioners, smoking cessation counselors, and teachers;
 - Administration and core funding for county health departments;
 - Enforcement of the Clean Indoor Air Act and laws prohibiting the sale or provision of tobacco to minors; and
 - Expansion of the AHEC smoking cessation initiative to each county within the state and other activities.
- Creates the Tobacco Education and Use Prevention Advisory Council consisting of 23 members, including the Secretary of Health; one county health director; two members appointed by the Commissioner of Education the chief executive officers of the American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco Free Kids. and the Leacy Foundation; the deans of the Florida medical schools; and members appointed by the Governor, Speaker of the House, and President of the Senate.
- Provides that the council is to advise the Secretary of Health as to the direction and scope of the program. The council will perform a number of duties, including:
 - Providing advice on program priorities and emphases;
 - Providing advice on overall program budget;
 - Reviewing broadcast material
 - Participating in periodic program evaluation;
 - Assisting in the development of administrative procedures;
 - Reviewing reports of peer-review panels;
 - Recommending meaningful outcome measures;
 - Recommending policies to encourage a coordinated response to tobacco use in the state.
- Requires the Secretary of Health, in consultation with the council, to award contracts and grants for the program components on the basis of merit through a competitive, peer-reviewed process.
 - Accountability will be ensured by limiting:

- The use of food and promotional items to no more than 2.5 percent of the total amount of each contract or grant;
 - Overhead or indirect costs to no more than 7.5 percent of the total amount of each contract or grant; and
 - Production fees, buyer commissions, and related costs to no more than 10 percent of the total of each advertising contract amount.
- Requires the department to award a contract or grant of \$10 million to the AHEC network for the 2007-2008 and 2008-2009 fiscal years. After this period, the AHEC network may participate in the competitive peer-reviewed process.
 - Requires the department to expedite the delivery of services and award contracts and grants no later than October 1 of each fiscal year.
- Requires the department to annually produce a report that evaluates the program's effectiveness in reducing and preventing tobacco use and recommends improvements to enhance the program's effectiveness.
 - Limits administrative expenses to up to 5 percent of the total funds appropriated for the program.

Bill No. CS for SB 1126



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Senate

CHAMBER ACTION

House

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The Conference Committee on CS for SB 1126 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 381.84, Florida Statutes, is created to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.--

(1) DEFINITIONS.--As used in this section and for purposes of the provisions of s. 27, Art. X of the State Constitution, the term:

(a) "AHEC network" means an area health education center network established under s. 381.0402.

(b) "CDC" means the United States Centers for Disease Control and Prevention.

(c) "Council" means the Tobacco Education and Use Prevention Advisory Council.

(d) "Department" means the Department of Health.



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1 (e) "Tobacco" means, without limitation, tobacco
2 itself and tobacco products that include tobacco and are
3 intended or expected for human use or consumption, including,
4 but not limited to, cigarettes, cigars, pipe tobacco, and
5 smokeless tobacco.

6 (f) "Youth" means minors and young adults.

7 (2) PURPOSE, FINDINGS, AND INTENT.--It is the purpose
8 of this section to implement s. 27, Art. X of the State
9 Constitution. The Legislature finds that s. 27, Art. X of the
10 State Constitution requires the funding of a statewide tobacco
11 education and use prevention program that focuses on tobacco
12 use by youth. The Legislature further finds that the primary
13 goals of the program are to reduce the prevalence of tobacco
14 use among youth, adults, and pregnant women; reduce per capita
15 tobacco consumption; and reduce exposure to environmental
16 tobacco smoke. Further, it is the intent of the Legislature to
17 base increases in funding for individual components of the
18 program on the results of assessments and evaluations.
19 Recognizing that some components will need to grow faster than
20 inflation, it is the intent of the Legislature to fund
21 portions of the program on a nonrecurring basis in the early
22 years so that those components that are most effective can be
23 supported as the program matures.

24 (3) PROGRAM COMPONENTS AND REQUIREMENTS.--The
25 department shall conduct a comprehensive, statewide tobacco
26 education and use prevention program consistent with the
27 recommendations for effective program components contained in
28 the 1999 Best Practices for Comprehensive Tobacco Control
29 Programs of the CDC, as amended by the CDC. The program shall
30 include the following components, each of which shall focus on
31 educating people, particularly youth and their parents, about



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1 the health hazards of tobacco and discouraging the use of
2 tobacco:

3 (a) Counter-marketing and advertising; cyberspace
4 resource center.--The counter-marketing and advertising
5 campaign shall include, at a minimum, Internet, print, radio,
6 and television advertising and shall be funded with a minimum
7 of one-third of the total annual appropriation required by s.
8 27, Art. X of the State Constitution. A cyberspace resource
9 center for copyrighted materials and information concerning
10 tobacco education and use prevention, including cessation,
11 shall be maintained by the program. Such resource center must
12 be accessible to the public, including parents, teachers, and
13 students, at each level of public and private schools,
14 universities, and colleges in the state and shall provide
15 links to other relevant resources. The Internet address for
16 the resource center must be incorporated in all advertising.
17 The information maintained in the resource center shall be
18 used by the other components of the program.

19 (b) Cessation programs, counseling, and
20 treatment.--This program component shall include two
21 subcomponents:

22 1. A statewide toll-free cessation service, which may
23 include counseling, referrals to other local resources and
24 support services, and treatment to the extent funds are
25 available for treatment services; and

26 2. A local community-based program to disseminate
27 information about smoking cessation, how smoking cessation
28 relates to prenatal care and obesity prevention, and other
29 chronic tobacco-related diseases.

30 (c) Surveillance and evaluation.--The program shall
31 conduct ongoing epidemiological surveillance and shall



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1 contract for annual independent evaluations of the
2 effectiveness of the various components of the program in
3 meeting the goals as set forth in subsection (2).

4 (d) Youth school programs.--School and after-school
5 programs shall use current evidence-based curricula and
6 programs that involve youth to educate youth about the health
7 hazards of tobacco, help youth develop skills to refuse
8 tobacco, and demonstrate to youth how to stop using tobacco.

9 (e) Community programs and chronic disease
10 prevention.--The department shall promote and support local
11 community-based partnerships that emphasize programs involving
12 youth, including programs for the prevention, detection, and
13 early intervention of smoking-related chronic diseases.

14 (f) Training.--The program shall include the training
15 of health care practitioners, smoking-cessation counselors,
16 and teachers by health professional students and other
17 tobacco-use prevention specialists who are trained in
18 preventing tobacco use and health education. Smoking-cessation
19 counselors shall be trained by specialists who are certified
20 in tobacco-use cessation.

21 (g) Administration, statewide programs, and county
22 health departments.--Each county health department is eligible
23 to receive a portion of the annual appropriation, on a per
24 capita basis, for coordinating tobacco education and use
25 prevention programs within that county. Appropriated funds may
26 be used to improve the infrastructure of the county health
27 department to implement the comprehensive, statewide tobacco
28 education and use prevention program. Each county health
29 department shall prominently display in all treatment rooms
30 and waiting rooms, counter-marketing and advertisement
31 materials in the form of wall posters, brochures, television



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1 advertising if televisions are used in the lobby or waiting
2 room, and screensavers and Internet advertising if computer
3 kiosks are available for use or viewing by people at the
4 county health department.

5 (h) Enforcement and awareness of related laws.--In
6 coordination with the Department of Business and Professional
7 Regulation, the program shall monitor the enforcement of laws,
8 rules, and policies prohibiting the sale or other provision of
9 tobacco to minors, as well as the continued enforcement of the
10 Clean Indoor Air Act prescribed in chapter 386. The
11 advertisements produced in accordance with paragraph (a) may
12 also include information designed to make the public aware of
13 these related laws and rules. The departments may enter into
14 interagency agreements to carry out this program component.

15 (i) AHEC smoking-cessation initiative.--For the
16 2007-2008 and 2008-2009 fiscal years only, the AHEC network
17 shall expand the AHEC smoking-cessation initiative to each
18 county within the state and perform other activities as
19 determined by the department.

20 (4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND
21 MEETINGS.--The Tobacco Education and Use Prevention Advisory
22 Council is created within the department.

23 (a) The council shall consist of 23 members,
24 including:

25 1. The Secretary of Health, who shall serve as the
26 chairperson.

27 2. One county health department director, appointed by
28 the Secretary of Health.

29 3. Two members appointed by the Commissioner of
30 Education, of whom one must be a school district
31 superintendent.



1 4. The chief executive officer of the Florida Division
2 of the American Cancer Society, or his or her designee.

3 5. The chief executive officer of the Greater
4 Southeast Affiliate of the American Heart Association, or his
5 or her designee.

6 6. The chief executive officer of the American Lung
7 Association of Florida, or his or her designee.

8 7. The dean of the University of Miami School of
9 Medicine, or his or her designee.

10 8. The dean of the University of Florida College of
11 Medicine, or his or her designee.

12 9. The dean of the University of South Florida College
13 of Medicine, or his or her designee.

14 10. The dean of the Florida State University College
15 of Medicine, or his or her designee.

16 11. The dean of Nova Southeastern College of
17 Osteopathic Medicine, or his or her designee.

18 12. The dean of the Lake Erie College of Osteopathic
19 Medicine in Bradenton, Florida, or his or her designee.

20 13. The chief executive officer of the Campaign for
21 Tobacco Free Kids, or his or her designee.

22 14. The chief executive officer of the Legacy
23 Foundation, or his or her designee.

24 15. Four members appointed by the Governor, of whom
25 two must have expertise in the field of tobacco-use prevention
26 and education or smoking cessation and one individual who
27 shall be between the ages of 16 and 21 at the time of his or
28 her appointment.

29 16. Two members appointed by the President of the
30 Senate, of whom one must have expertise in the field of
31 tobacco-use prevention and education or smoking cessation.



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1 17. Two members appointed by the Speaker of the House
2 of Representatives, of whom one must have expertise in the
3 field of tobacco-use prevention and education or smoking
4 cessation.

5 (b) The appointments shall be for 3-year terms and
6 shall reflect the diversity of the state's population. A
7 vacancy shall be filled by appointment by the original
8 appointing authority for the unexpired portion of the term.

9 (c) An appointed member may not serve more than two
10 consecutive terms.

11 (d) The council shall meet at least quarterly and upon
12 the call of the chairperson. Meetings may be held via
13 teleconference or other electronic means.

14 (e) Members of the council shall serve without
15 compensation, but are entitled to reimbursement for per diem
16 and travel expenses pursuant to s. 112.061. Members who are
17 state officers or employees or who are appointed by state
18 officers or employees shall be reimbursed for per diem and
19 travel expenses pursuant to s. 112.061 from the state agency
20 through which they serve.

21 (f) The department shall provide council members with
22 information and other assistance as is reasonably necessary to
23 assist the council in carrying out its responsibilities.

24 (5) COUNCIL DUTIES AND RESPONSIBILITIES.--The council
25 shall advise the Secretary of Health as to the direction and
26 scope of the Comprehensive Statewide Tobacco Education and Use
27 Prevention Program. The responsibilities of the council
28 include, but are not limited to:

29 (a) Providing advice on program priorities and
30 emphases.

31 (b) Providing advice on the overall program budget.



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1 (c) Providing advice on copyrighted material,
2 trademark, and future transactions as they pertain to the
3 tobacco education and use prevention program.

4 (d) Reviewing broadcast material prepared for the
5 Internet, portable media players, radio, and television as it
6 relates to the advertising component of the tobacco education
7 and use prevention program.

8 (e) Participating in periodic program evaluation.

9 (f) Assisting in the development of guidelines to
10 ensure fairness, neutrality, and adherence to the principles
11 of merit and quality in the conduct of the program.

12 (g) Assisting in the development of administrative
13 procedures relating to solicitation, review, and award of
14 contracts and grants in order to ensure an impartial,
15 high-quality peer-review system.

16 (h) Assisting in the development and supervision of
17 peer-review panels.

18 (i) Reviewing reports of peer-review panels and making
19 recommendations for contracts and grants.

20 (j) Reviewing the activities and evaluating the
21 performance of the AHEC network to avoid duplicative efforts
22 using state funds.

23 (k) Recommending meaningful outcome measures through a
24 regular review of tobacco-use prevention and education
25 strategies and programs of other states and the Federal
26 Government.

27 (l) Recommending policies to encourage a coordinated
28 response to tobacco use in this state, focusing specifically
29 on creating partnerships within and between the public and
30 private sectors.

31 (6) CONTRACT REQUIREMENTS.--Contracts or grants for



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1 the program components or subcomponents described in
2 paragraphs (3)(a)-(f) shall be awarded by the Secretary of
3 Health, after consultation with the council, on the basis of
4 merit, as determined by an open, competitive, peer-reviewed
5 process that ensures objectivity, consistency, and high
6 quality. The department shall award such grants or contracts
7 no later than October 1 for each fiscal year. A recipient of a
8 contract or grant for the program component described in
9 paragraph (3)(c) is not eligible for a contract or grant award
10 for any other program component described in subsection (3) in
11 the same state fiscal year. A school or college of medicine
12 that is represented on the council is not eligible to receive
13 a contract or grant under this section. For the 2007-2008 and
14 2008-2009 fiscal years only, the department shall award a
15 contract or grant in the amount of \$10 million to the AHEC
16 network for the purpose of developing the components described
17 in paragraph (3)(i). The AHEC network may apply for a
18 competitive contract or grant after the 2008-2009 fiscal year.

19 (a) In order to ensure that all proposals for funding
20 are appropriate and are evaluated fairly on the basis of
21 merit, the Secretary of Health, in consultation with the
22 council, shall appoint a peer-review panel of independent,
23 qualified experts in the field of tobacco control to review
24 the content of each proposal and establish its priority score.
25 The priority scores shall be forwarded to the council and must
26 be considered in determining which proposals will be
27 recommended for funding.

28 (b) The council and the peer-review panel shall
29 establish and follow rigorous guidelines for ethical conduct
30 and adhere to a strict policy with regard to conflicts of
31 interest. A member of the council or panel may not participate



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1 in any discussion or decision with respect to a research
2 proposal by any firm, entity, or agency with which the member
3 is associated as a member of the governing body or as an
4 employee or with which the member has entered into a
5 contractual arrangement. Meetings of the council and the
6 peer-review panels are subject to chapter 119, s. 286.011, and
7 s. 24, Art. I of the State Constitution.

8 (c) In each contract or grant agreement, the
9 department shall limit the use of food and promotional items
10 to no more than 2.5 percent of the total amount of the
11 contract or grant and limit overhead or indirect costs to no
12 more than 7.5 percent of the total amount of the contract or
13 grant. The department, in consultation with the Department of
14 Financial Services, shall publish guidelines for appropriate
15 food and promotional items.

16 (d) In each advertising contract, the department shall
17 limit the total of production fees, buyer commissions, and
18 related costs to no more than 10 percent of the total contract
19 amount.

20 (e) Notwithstanding the competitive process for
21 contracts prescribed in this subsection, each county health
22 department is eligible for core funding, on a per capita
23 basis, to implement tobacco education and use prevention
24 activities within that county.

25 (7) ANNUAL REPORT REQUIRED.--By January 31 of each
26 year, the department shall provide to the Governor, the
27 President of the Senate, and the Speaker of the House of
28 Representatives a report that evaluates the program's
29 effectiveness in reducing and preventing tobacco use and that
30 recommends improvements to enhance the program's
31 effectiveness. The report must contain, at a minimum, an



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1 annual survey of youth attitudes and behavior toward tobacco,
2 as well as a description of the progress in reducing the
3 prevalence of tobacco use among youth, adults, and pregnant
4 women; reducing per capita tobacco consumption; and reducing
5 exposure to environmental tobacco smoke.

6 (8) LIMITATION ON ADMINISTRATIVE EXPENSES.--From the
7 total funds appropriated for the Comprehensive Statewide
8 Tobacco Education and Use Prevention Program in the General
9 Appropriations Act, an amount of up to 5 percent may be used
10 by the department for administrative expenses.

11 (9) RULEMAKING AUTHORIZED.--By January 1, 2008, the
12 department shall adopt rules pursuant to ss. 120.536(1) and
13 120.54 to administer this section.

14 Section 2. This act shall take effect July 1, 2007.

15
16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete everything before the enacting clause

20
21 and insert:

22 A bill to be entitled

23 An act relating to tobacco education and
24 prevention; creating s. 381.84, F.S.; requiring
25 the Department of Health to conduct a statewide
26 tobacco education and use prevention program;
27 providing definitions; providing legislative
28 purpose and findings; establishing components
29 of the program; creating the Tobacco Education
30 and Use Prevention Advisory Council; providing
31 membership and duties of the council; providing



1 reimbursement for travel and other expenses for
2 council members; requiring the Secretary of
3 Health to award contracts in consultation with
4 the council; providing for the appointment of a
5 peer-review panel to review proposals for
6 funding; specifying the use of funds
7 appropriated under the program; requiring an
8 annual report by the department to the Governor
9 and the Legislature; providing rulemaking
10 authority; providing an effective date.
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The Conference Committee Amendment for CS/SB 1134 relating to Transportation provides for the following:

- Revises the matching fund formula for fixed-guideway revenue bonds to allow for various matching scenarios up to a limit of 50 percent on the state's share of the eligible project cost;
- Provides eligibility criteria for participation in the Department of Transportation's (FDOT) youth work experience program;
- Allows DOT to waive the requirement for contractors to be pre-qualified to bid on jobs when the project is under \$500,000 and noncompliance will not endanger the public health, safety, or welfare;
- Increases, from \$150,000 to \$250,000, the maximum contract price threshold at which DOT may waive surety bond requirements;
- Allows DOT to waive surety bond requirement for contracts greater than \$250 million provided the contractor can provide alternate means of security for the balance of the contract amount; and
- Raises the Turnpike Enterprise's revenue bond cap from \$4.5 billion in bonds issued to \$10 billion in bonds outstanding. This change gives the Turnpike Enterprise more immediate bond capacity and creates a revolving line of credit to issue more bonds as the Turnpike pays down its balance;
- Creates a pilot program for outdoor advertising signs within Orange and Osceola counties;
- Requires the Department of Highway Safety and Motor Vehicles to implement a system whereby department-authorized issuers of temporary license plates may issue print-on-demand electronic temporary license plates.



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Senate

CHAMBER ACTION

House

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The Conference Committee on CS for SB 1134 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (1) of section 215.615, Florida Statutes, is amended to read:

215.615 Fixed-guideway transportation systems funding.--

(1) The issuance of revenue bonds by the Division of Bond Finance, on behalf of the Department of Transportation, pursuant to s. 11, Art. VII of the State Constitution, is authorized, pursuant to the State Bond Act, to finance or refinance fixed capital expenditures for fixed-guideway transportation systems, as defined in s. 341.031, including facilities appurtenant thereto, costs of issuance, and other amounts relating to such financing or refinancing. Such revenue-bonds-shall-be-matched-on-a-50-50-basis-with-funds from-sources-other-than-revenues-of-the-Department-of



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~~Transportation, in a manner acceptable to the Department of~~
~~Transportation.~~ The Division of Bond Finance is authorized to
consider innovative financing techniques that ~~technologies~~
which may include, but are not limited to, innovative bidding
and structures of potential financings ~~findings~~ that may
result in negotiated transactions.

(a) The department and any participating commuter rail
authority or regional transportation authority established
under chapter 343, local governments, or local governments
collectively by interlocal agreement having jurisdiction of a
fixed-guideway transportation system may enter into an
interlocal agreement to promote the efficient and
cost-effective financing or refinancing of fixed-guideway
transportation system projects by revenue bonds issued
pursuant to this subsection. The terms of such interlocal
agreements shall include provisions for the Department of
Transportation to request the issuance of the bonds on behalf
of the parties; shall provide that the department's share may
be up to 50 percent of the eligible project cost, which may
include a share of the annual ~~each party to the agreement is~~
~~contractually liable for an equal share of funding an amount~~
~~equal to the~~ debt service requirements of such bonds; and
shall include any other terms, provisions, or covenants
necessary to the making of and full performance under such
interlocal agreement. Repayments made to the department under
any interlocal agreement are not pledged to the repayment of
bonds issued hereunder, and failure of the local governmental
authority to make such payment shall not affect the obligation
of the department to pay debt service on the bonds.

(b) Revenue bonds issued pursuant to this subsection
shall not constitute a general obligation of, or a pledge of



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1 the full faith and credit of, the State of Florida. Bonds
2 issued pursuant to this section shall be payable from funds
3 available pursuant to s. 206.46(3), or other funds available
4 to the project, subject to annual appropriation. The amount of
5 revenues available for debt service shall never exceed a
6 maximum of 2 percent of all state revenues deposited into the
7 State Transportation Trust Fund.

8 (c) The projects to be financed or refinanced with the
9 proceeds of the revenue bonds issued hereunder are designated
10 as state fixed capital outlay projects for purposes of s.
11 11(d), Art. VII of the State Constitution, and the specific
12 projects to be financed or refinanced shall be determined by
13 the Department of Transportation in accordance with state law
14 and appropriations from the State Transportation Trust Fund.
15 Each project to be financed with the proceeds of the bonds
16 issued pursuant to this subsection must first be approved by
17 the Legislature by an act of general law.

18 (d) Any complaint for validation of bonds issued
19 pursuant to this section shall be filed in the circuit court
20 of the county where the seat of state government is situated,
21 the notice required to be published by s. 75.06 shall be
22 published only in the county where the complaint is filed, and
23 the complaint and order of the circuit court shall be served
24 only on the state attorney of the circuit in which the action
25 is pending.

26 (e) The state does hereby covenant with holders of
27 such revenue bonds or other instruments of indebtedness issued
28 hereunder, that it will not repeal or impair or amend these
29 provisions in any manner that will materially and adversely
30 affect the rights of such holders as long as bonds authorized
31 by this subsection are outstanding.



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1 (f) This subsection supersedes any inconsistent
2 provisions in existing law.

3
4 Notwithstanding this subsection, the lien of revenue bonds
5 issued pursuant to this subsection on moneys deposited into
6 the State Transportation Trust Fund shall be subordinate to
7 the lien on such moneys of bonds issued under ss. 215.605,
8 320.20, and 215.616, and any pledge of such moneys to pay
9 operating and maintenance expenses under s. 206.46(5) and
10 chapter 348, as may be amended.

11 Section 2. Section 334.351, Florida Statutes, is
12 amended to read:

13 334.351 Youth work experience program; findings and
14 intent; authority to contract; limitation.--

15 (1) The Legislature finds and declares that young men
16 and women of the state should be given an opportunity to
17 obtain public service work and training experience that
18 protects and conserves the valuable resources of the state and
19 promotes participation in other community enhancement
20 projects. Notwithstanding the requirements of chapters 287 and
21 337, the Department of Transportation is authorized to
22 contract with public agencies and nonprofit organizations for
23 the performance of work related to the construction and
24 maintenance of transportation-related facilities by youths
25 enrolled in youth work experience programs. The total amount
26 of contracts entered into by the department under this section
27 in any fiscal year may not exceed the amount specifically
28 appropriated by the Legislature for this program.

29 (2) Each nonprofit youth organization that provides
30 services under a contract with the department must certify
31 that each young person enrolled in its work experience program



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1 is a resident of this state and possesses a valid Florida
2 driver's license or identification card.

3 (3) When selecting a nonprofit youth organization to
4 perform work on transportation-related facilities and before
5 awarding a contract under this section, the department must
6 consider the following criteria:

7 (a) The number of participants receiving
8 life-management skills training;

9 (b) The number of participants receiving high school
10 diplomas or GEDs;

11 (c) The number of participants receiving scholarships;

12 (d) The number of participants receiving bonuses;

13 (e) The number of participants who have secured
14 full-time jobs; and

15 (f) The other programs or services that support the
16 development of disadvantaged youths.

17 (4) Each nonprofit youth organization under contract
18 with the department must:

19 (a) Submit an annual report to the department by
20 January 1 of each year. The report must include, but need not
21 be limited to, the applicable performance of the organization
22 when measured by the criteria in subsection (3) for the
23 organization's most recently completed fiscal year.

24 (b) Submit an independent audit of the organization's
25 financial records to the department each year. The
26 organization's contract with the department must allow the
27 department the right to inspect the organization's financial
28 and program records.

29 (c) Demonstrate participation in a peer assessment or
30 review process, such as the Excellence in Corps Operations of
31 the National Association of Service and Conservation Corps.



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1 Section 3. Paragraph (a) of subsection (3) of section
2 337.11, Florida Statutes, is amended to read:

3 337.11 Contracting authority of department; bids;
4 emergency repairs, supplemental agreements, and change orders;
5 combined design and construction contracts; progress payments;
6 records; requirements of vehicle registration.--

7 (3)(a) On all construction contracts of \$250,000 or
8 less, as well as any construction contract of less than
9 \$500,000 for which the department has waived prequalification
10 pursuant to s. 337.14, the department shall advertise for bids
11 in a newspaper having general circulation in the county where
12 the proposed work is located. Publication shall be at least
13 once a week for no less than 2 consecutive weeks, and the
14 first publication shall be no less than 14 days prior to the
15 date on which bids are to be received.

16 Section 4. Subsection (1) of section 337.14, Florida
17 Statutes, is amended to read:

18 337.14 Application for qualification; certificate of
19 qualification; restrictions; request for hearing.--

20 (1) Any person desiring to bid for the performance of
21 any construction contract in excess of \$250,000 which the
22 department proposes to let must first be certified by the
23 department as qualified pursuant to this section and rules of
24 the department. The rules of the department shall address the
25 qualification of persons to bid on construction contracts in
26 excess of \$250,000 and shall include requirements with respect
27 to the equipment, past record, experience, financial
28 resources, and organizational personnel of the applicant
29 necessary to perform the specific class of work for which the
30 person seeks certification. The department is authorized to
31 limit the dollar amount of any contract upon which a person is



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1 qualified to bid or the aggregate total dollar volume of
2 contracts such person is allowed to have under contract at any
3 one time. Each applicant seeking qualification to bid on
4 construction contracts in excess of \$250,000 shall furnish the
5 department a statement under oath, on such forms as the
6 department may prescribe, setting forth detailed information
7 as required on the application. Each application for
8 certification shall be accompanied by the latest annual
9 financial statement of the applicant completed within the last
10 12 months. If the annual financial statement shows the
11 financial condition of the applicant more than 4 months prior
12 to the date on which the application is received by the
13 department, then an interim financial statement must also be
14 submitted. The interim financial statement must cover the
15 period from the end date of the annual statement and must show
16 the financial condition of the applicant no more than 4 months
17 prior to the date on which the application is received by the
18 department. Each required annual or interim financial
19 statement must be audited and accompanied by the opinion of a
20 certified public accountant or a public accountant approved by
21 the department. The information required by this subsection is
22 confidential and exempt from the provisions of s. 119.07(1).
23 The department shall act upon the application for
24 qualification within 30 days after the department determines
25 that the application is complete. The department may waive the
26 requirements of this subsection for projects having a contract
27 price of \$500,000 or less if the department determines that
28 the project is of a noncritical nature and noncompliance with
29 the subsection will not endanger public health, safety, or
30 property.

31 Section 5. Paragraph (a) of subsection (1) of section



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1 337.18, Florida Statutes, is amended to read:

2 337.18 Surety bonds for construction or maintenance
3 contracts; requirement with respect to contract award; bond
4 requirements; defaults; damage assessments.--

5 (1)(a) A surety bond shall be required of the
6 successful bidder in an amount equal to the awarded contract
7 price. However, the department may choose, in its discretion
8 and applicable only to multiyear maintenance contracts, to
9 allow for incremental annual contract bonds that cumulatively
10 total the full, awarded multiyear contract price. For a
11 project for which the contract price is \$250,000 ~~\$150,000~~ or
12 less, the department may waive the requirement for all or a
13 portion of a surety bond if it determines the project is of a
14 noncritical nature and nonperformance will not endanger public
15 health, safety, or property. If the Secretary of
16 Transportation or the secretary's designee determines that it
17 is in the best interests of the department to do so and that a
18 reduced bonding requirement for a project will not endanger
19 public health, safety, or property, the department may waive
20 the requirement of a surety bond in an amount equal to the
21 awarded contract price for a project having a contract price
22 of \$250 million or more, and, in its place, may set a surety
23 bond amount that is a portion of the total contract price and
24 provide an alternate means of security for the balance of the
25 contract amount which is not covered by the surety bond or
26 provide for incremental surety bonding and provide an
27 alternate means of security for the balance of the contract
28 amount which is not covered by the surety bond. Such alternate
29 means of security may include letters of credit, United States
30 bonds and notes, parent company guarantees, and cash
31 collateral. The department may require alternate means of



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1 security if a surety bond is waived. The surety on such bond
2 shall be a surety company authorized to do business in the
3 state. All bonds shall be payable to the department and
4 conditioned for the prompt, faithful, and efficient
5 performance of the contract according to plans and
6 specifications and within the time period specified, and for
7 the prompt payment of all persons defined in s. 713.01
8 furnishing labor, material, equipment, and supplies for work
9 provided in the contract; however, whenever an improvement,
10 demolition, or removal contract price is \$25,000 or less, the
11 security may, in the discretion of the bidder, be in the form
12 of a cashier's check, bank money order of any state or
13 national bank, certified check, or postal money order. The
14 department shall adopt rules to implement this subsection.
15 Such rules shall include provisions under which the department
16 shall refuse to accept bonds on contracts when a surety
17 wrongfully fails or refuses to settle or provide a defense for
18 claims or actions arising under a contract for which the
19 surety previously furnished a bond.

20 Section 6. Subsection (1) of section 338.2275, Florida
21 Statutes, is amended to read:

22 338.2275 Approved turnpike projects.--

23 (1) Legislative approval of the department's tentative
24 work program that contains the turnpike project constitutes
25 approval to issue bonds as required by s. 11(f), Art. VII of
26 the State Constitution. No more than \$10 Turnpike-projects
27 ~~approved-to-be-included-in-future-tentative-work-programs~~
28 ~~include,-but-are-not-limited-to,-projects-contained-in-the~~
29 ~~2003-2004-tentative-work-program.-A-maximum-of-\$4.5 billion of~~
30 bonds may be outstanding issued to fund approved turnpike
31 projects.



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1 Section 7. Subsection (9) of section 479.07, Florida
2 Statutes, is amended to read:

3 479.07 Sign permits.--

4 (9) (a) A permit shall not be granted for any sign for
5 which a permit had not been granted by the effective date of
6 this act unless such sign is located at least:

7 1. One thousand five hundred feet from any other
8 permitted sign on the same side of the highway, if on an
9 interstate highway.

10 2. One thousand feet from any other permitted sign on
11 the same side of the highway, if on a federal-aid primary
12 highway.

13
14 The minimum spacing provided in this paragraph does not
15 preclude the permitting of V-type, back-to-back, side-to-side,
16 stacked, or double-faced signs at the permitted sign site.

17 (b) A permit shall not be granted for a sign pursuant
18 to this chapter to locate such sign on any portion of the
19 interstate or federal-aid primary highway system, which sign:

20 1. Exceeds 50 feet in sign structure height above the
21 crown of the main-traveled way, if outside an incorporated
22 area;

23 2. Exceeds 65 feet in sign structure height above the
24 crown of the main-traveled way, if inside an incorporated
25 area; or

26 3. Exceeds 950 square feet of sign facing including
27 all embellishments.

28 (c) Notwithstanding subparagraph (a)1., there is
29 established a pilot program in Orange and Osceola Counties
30 under which the distance between permitted signs on the same
31 side of an interstate highway may be reduced to 1,000 feet if



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all other requirements of this chapter are met and if:

1. The local government has adopted a plan, program, resolution, ordinance, or other policy encouraging the voluntary removal of signs in a downtown, historic, redevelopment, infill, or other designated area which also provides for a new or replacement sign to be erected on an interstate highway within that jurisdiction if a sign in the designated area is removed;

2. The sign owner and the local government mutually agree to the terms of the removal and replacement; and

3. The local government notifies the department of its intention to allow such removal and replacement as agreed upon pursuant to subparagraph 2.

The department shall maintain statistics tracking the use of the provisions of this pilot program based on the notifications received by the department from local governments under this paragraph.

(d){e} Nothing in this subsection shall be construed so as to cause a sign which was conforming on October 1, 1984, to become nonconforming.

Section 8. The Department of Highway Safety and Motor Vehicles shall implement a secure print-on-demand electronic temporary license plate registration, record retention, and issue system for use by every department-authorized issuer of temporary license plates by the end of the 2007-2008 fiscal year. Secure print-on-demand for this purpose means validating state registration data using higher levels of commercially accepted data encryption methods from the point of department connectivity to the license plate printer. The temporary license plate media used for this purpose shall be a



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nonpermeable material that maintains its structural integrity,
including graphic and data adhesion, in all weather conditions
after being placed on a vehicle. For public safety in general
and for the safety of law enforcement officers, placement of
temporary license plates on the outside of the vehicle and in
the provided license plate mount when available is encouraged.
The department may adopt rules as necessary to implement this
program in the 2007-2008 fiscal year. The department may
provide such exemptions as may be feasibly required.

Section 9. This act shall take effect July 1, 2007.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to transportation; amending s.
215.615, F.S.; revising the Department of
Transportation's requirement to share certain
costs of fixed-guideway system projects;
revising criteria for an interlocal agreement
to establish bond financing for fixed-guideway
system projects; revising provisions for
sources of funds for the payment of bonds;
amending s. 334.351, F.S.; requiring nonprofit
youth organizations that contract with the
Department of Transportation for the purpose of
operating youth work experience programs to
certify that the program participants are



582842

1 residents of the state and possess valid
2 identification; specifying criteria for the
3 department to consider in awarding contracts to
4 such organizations; requiring that the
5 nonprofit youth organizations submit certain
6 reports and audits to the department and
7 demonstrate participation in a peer assessment
8 or review process; amending s. 337.11, F.S.;
9 providing that certain construction projects be
10 advertised for bids in local newspapers;
11 amending s. 337.14, F.S.; authorizing the
12 department to waive specified prequalification
13 requirements for certain transportation
14 projects under certain conditions; amending s.
15 337.18, F.S.; revising surety bond requirements
16 for construction or maintenance contracts;
17 providing for incremental annual surety bonds
18 for multiyear maintenance contracts under
19 certain conditions; revising the threshold for
20 transportation projects eligible for a waiver
21 of surety bond requirements; authorizing the
22 department to provide for phased surety bond
23 coverage or an alternate means of security for
24 a portion of the contract amount in lieu of the
25 surety bond; amending s. 338.2275, F.S.;
26 raising the limit on outstanding bonds to fund
27 turnpike projects; amending s. 479.07, F.S.;
28 establishing a pilot program in specified
29 counties authorizing a reduction in the
30 distance between permitted signs on the same
31 side of an interstate highway; providing



1 requirements for the local government and the
2 sign owner with respect to participating in the
3 pilot program; requiring that the department
4 maintain statistics concerning the program;
5 requiring the Department of Highway Safety and
6 Motor Vehicles to implement by a certain date a
7 system whereby department-authorized issuers of
8 temporary license plates may issue
9 print-on-demand electronic temporary license
10 plates; specifying requirements for the
11 material used for the temporary plates;
12 authorizing the department to adopt rules and
13 provide exemptions as required; providing an
14 effective date.

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The Conference Committee Amendment for CS/Senate Bill 1420 relating to state employment. resolves the noneconomic collective bargaining issues at impasse between the State of Florida and the bargaining representatives for state employees for the 2007-2008 fiscal year.

Bill No. SB 1420



681452

CHAMBER ACTION

Senate

House

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The Conference Committee on SB 1420 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. All noneconomic collective bargaining issues at impasse for the 2007-2008 fiscal year between the State of Florida and the legal representatives of the certified bargaining units for state employees shall be resolved as follows:

(1) Collective bargaining issues at impasse between the State of Florida and the Florida State Fire Service Association regarding Article 16 "Retirement," Article 20 "Training and Education," Article 23 "Hours of Work and Overtime," and Article 24 "On Call, Assignment, Call Back and Residency" shall be resolved by maintaining the status quo under the language of the current collective bargaining agreement.

(2) Collective bargaining issues at impasse between



1 the State of Florida and the American Federation of State,
2 County and Municipal Employees, Florida Council 79 regarding
3 Article 5 "Union Activities and Employee Representation,"
4 Article 8 "Workforce Reduction," Article 9 "Vacant (formerly
5 known as "Reassignment and Transfer"), Article 10 "Vacant
6 (formerly known as "Promotion"), Article 15 "Length of
7 Service Preference," Article 18 "Leaves of Absence, Hours of
8 Work, Disability Leave," Article 24 "On Call, Assignment and
9 Call Back," Article 28 "Travel Expenses," AFSCME Proposed New
10 Article "Professional and Occupational Employee Licensure and
11 Continuing Education," and AFSCME Proposed New Article
12 "Special Risk Retirement" shall be resolved by maintaining the
13 status quo under the language of the current collective
14 bargaining agreement.

15 (3) Collective bargaining issues at impasse between
16 the State of Florida and the Police Benevolent Association -
17 Security Services Unit regarding Article 7 "Discipline and
18 Discharge" shall be resolved by maintaining the status quo
19 under the language of the current collective bargaining
20 agreement. All collective bargaining issues at impasse
21 regarding Article 23 "Hours of Work and Overtime" shall be
22 resolved by maintaining the status quo under the language of
23 the current collective bargaining agreement with respect to
24 Article 23, Sections 1(A), 1(C), 2(B) (2) (b) and 2(G) and shall
25 be resolved in accordance with the State of Florida's offer of
26 March 20, 2007, with respect to Sections 2(B) (2) (a),
27 2(B) (2) (c), and 2(B) (2) (d).

28 (4) Collective bargaining issues at impasse between
29 the State of Florida and the Police Benevolent Association -
30 Law Enforcement Unit regarding Article 9 "Reassignment,
31 Transfer, Change in Duty Station and Promotion," Article 10



1 "Disciplinary Action," Article 12 "Personnel Records," Article
2 14 "Performance Review," and Article 36 "Awards" shall be
3 resolved by maintaining the status quo under the language of
4 the current collective bargaining agreement. All collective
5 bargaining issues at impasse regarding Article 18, Section 6
6 "Hours of Work, Leave, and Job-Connected Disability" shall be
7 resolved in accordance with the State of Florida's offer of
8 February 2, 2007.

9 (5) Collective bargaining issues at impasse between
10 the Department of the Lottery and the Federation of Public
11 Employees regarding Article 4 "Grievance Procedure,
12 Non-Disciplinary Cases" shall be resolved in accordance with
13 the Department of the Lottery's Proposal 4-2 dated March 12,
14 2007.

15 (6) All other mandatory collective bargaining issues
16 at impasse for the 2007-2008 fiscal year which are not
17 addressed by this act or the General Appropriations Act for
18 the 2007-2008 fiscal year shall be resolved consistent with
19 the personnel rules in effect on May 4, 2007, and by otherwise
20 maintaining the status quo under the language of the current
21 collective bargaining agreements.

22 Section 2. This act shall take effect upon becoming a
23 law.

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26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete everything before the enacting clause

29
30 and insert:

31 A bill to be entitled



1 An act relating to state employment; providing
2 for the resolution of certain collective
3 bargaining issues at impasse between the State
4 of Florida and certified bargaining units of
5 state employees; providing an effective date.
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The Conference Committee Amendment for House Bill 7063, relating to excise taxes on fuel and other pollutants, redistributes \$5 million or 2.5 percent of revenues, whichever is greater, in the Inland Protection Trust Fund to the Florida Coastal Protection Trust Fund in the Department of Environmental Protection. This redistribution of revenue will provide continued support of law enforcement and pollutant discharge cleanup activities.

Bill No. HB 7063



523572

Senate

CHAMBER ACTION

House

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The Conference Committee on HB 7063 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (5) is added to section 206.9935, Florida Statutes, to read:

206.9935 Taxes imposed.--

(5) The sum of \$5 million or 2.5 percent, whichever is greater, of the amount credited to the Inland Protection Trust Fund pursuant to subsection (3) shall be transferred to the Florida Coastal Protection Trust Fund and used for the purposes authorized in s. 376.11.

Section 2. This act shall take effect July 1, 2007.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause



1 and insert:

2 A bill to be entitled

3 An act relating to excise taxes on fuel and
4 other pollutants; amending s. 206.9935, F.S.;
5 providing for transferring certain amounts from
6 the Inland Protection Trust Fund to the Florida
7 Coastal Protection Trust Fund for certain
8 purposes; providing an effective date.

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The Conference Committee Amendment for HB 7065, 1st Eng. relating to Medicaid:

- Amends s. 409.912 as follows:
 - Requires the Agency for Health Care Administration (AHCA) to implement Florida Senior Care, an integrated fixed-payment delivery program for Medicaid recipients 60 years of age or older and persons dually eligible for Medicare and Medicaid.
 - Requires the pilot to be implemented in Area 7 (Orange, Osceola, Seminole and Brevard counties) and Area 11 (Dade and Monroe counties) on a voluntary basis.
 - Provides enrollees with access to additional grievance processes through the subscriber assistance program.
 - Allows any qualified managed care entity to participate and offer services to enrollees in the pilot areas.
 - Adds a 10-business-day prompt payment requirement for participating managed care organizations to make payment to nursing homes that bill electronically and provides for an alternative capitated payment to prospectively pay nursing homes at the beginning of each month.
 - Provides that OPPAGA is to evaluate the pilot for 24 months after enrollment of recipients into the pilot program.
 - Requires AHCA to provide a report to the Governor and Legislature that contains an analysis of the merits and challenges of seeking a combined Medicaid and Medicare federal waiver.
 - Clarifies county participation in Medicaid nursing home payments for both health maintenance members and fee-for-service beneficiaries.

Bill No. HB 7065, 1st Eng.



323714

Senate

CHAMBER ACTION

House

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The Conference Committee on HB 7065, 1st Eng. recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (5) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.--The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of



1 prepaid per capita and prepaid aggregate fixed-sum basis
2 services when appropriate and other alternative service
3 delivery and reimbursement methodologies, including
4 competitive bidding pursuant to s. 287.057, designed to
5 facilitate the cost-effective purchase of a case-managed
6 continuum of care. The agency shall also require providers to
7 minimize the exposure of recipients to the need for acute
8 inpatient, custodial, and other institutional care and the
9 inappropriate or unnecessary use of high-cost services. The
10 agency shall contract with a vendor to monitor and evaluate
11 the clinical practice patterns of providers in order to
12 identify trends that are outside the normal practice patterns
13 of a provider's professional peers or the national guidelines
14 of a provider's professional association. The vendor must be
15 able to provide information and counseling to a provider whose
16 practice patterns are outside the norms, in consultation with
17 the agency, to improve patient care and reduce inappropriate
18 utilization. The agency may mandate prior authorization, drug
19 therapy management, or disease management participation for
20 certain populations of Medicaid beneficiaries, certain drug
21 classes, or particular drugs to prevent fraud, abuse, overuse,
22 and possible dangerous drug interactions. The Pharmaceutical
23 and Therapeutics Committee shall make recommendations to the
24 agency on drugs for which prior authorization is required. The
25 agency shall inform the Pharmaceutical and Therapeutics
26 Committee of its decisions regarding drugs subject to prior
27 authorization. The agency is authorized to limit the entities
28 it contracts with or enrolls as Medicaid providers by
29 developing a provider network through provider credentialing.
30 The agency may competitively bid single-source-provider
31 contracts if procurement of goods or services results in



1 demonstrated cost savings to the state without limiting access
2 to care. The agency may limit its network based on the
3 assessment of beneficiary access to care, provider
4 availability, provider quality standards, time and distance
5 standards for access to care, the cultural competence of the
6 provider network, demographic characteristics of Medicaid
7 beneficiaries, practice and provider-to-beneficiary standards,
8 appointment wait times, beneficiary use of services, provider
9 turnover, provider profiling, provider licensure history,
10 previous program integrity investigations and findings, peer
11 review, provider Medicaid policy and billing compliance
12 records, clinical and medical record audits, and other
13 factors. Providers shall not be entitled to enrollment in the
14 Medicaid provider network. The agency shall determine
15 instances in which allowing Medicaid beneficiaries to purchase
16 durable medical equipment and other goods is less expensive to
17 the Medicaid program than long-term rental of the equipment or
18 goods. The agency may establish rules to facilitate purchases
19 in lieu of long-term rentals in order to protect against fraud
20 and abuse in the Medicaid program as defined in s. 409.913.
21 The agency may seek federal waivers necessary to administer
22 these policies.

23 (5) ~~By-December-17-2005,~~ The Agency for Health Care
24 Administration, in partnership with the Department of Elderly
25 Affairs, shall create an integrated, fixed-payment delivery
26 program system for Medicaid recipients who are 60 years of age
27 or older or dually eligible for Medicare and Medicaid. The
28 Agency for Health Care Administration shall implement the
29 integrated program system initially on a pilot basis in two
30 areas of the state. The pilot areas shall be Area 7 and Area
31 11 of the Agency for Health Care Administration. ~~In-one-of-the~~



1 areas Enrollment in the pilot areas shall be on a voluntary
2 basis and in accordance with approved federal waivers and this
3 section. The agency and its program contractors and providers
4 shall not enroll any individual in the integrated program
5 because the individual or the person legally responsible for
6 the individual fails to choose to enroll in the integrated
7 program. Enrollment in the integrated program shall be
8 exclusively by affirmative choice of the eligible individual
9 or by the person legally responsible for the individual. The
10 integrated program must transfer all Medicaid services for
11 eligible elderly individuals who choose to participate into an
12 integrated-care management model designed to serve Medicaid
13 recipients in the community. The integrated program must
14 combine all funding for Medicaid services provided to
15 individuals who are 60 years of age or older or dually
16 eligible for Medicare and Medicaid into the integrated program
17 system, including funds for Medicaid home and community-based
18 waiver services; all Medicaid services authorized in ss.
19 409.905 and 409.906, excluding funds for Medicaid nursing home
20 services unless the agency is able to demonstrate how the
21 integration of the funds will improve coordinated care for
22 these services in a less costly manner; and Medicare
23 coinsurance and deductibles for persons dually eligible for
24 Medicaid and Medicare as prescribed in s. 409.908(13).

25 (a) Individuals who are 60 years of age or older or
26 dually eligible for Medicare and Medicaid and enrolled in the
27 developmental disabilities waiver program, the family and
28 supported-living waiver program, the project AIDS care waiver
29 program, the traumatic brain injury and spinal cord injury
30 waiver program, the consumer-directed care waiver program, and
31 the program of all-inclusive care for the elderly program, and



1 residents of institutional care facilities for the
2 developmentally disabled, must be excluded from the integrated
3 program system.

4 (b) Managed care ~~The-program-must-use-a-competitive~~
5 ~~procurement-process-to-select~~ entities who meet or exceed the
6 agency's minimum standards are eligible to operate the
7 integrated program system. Entities eligible to participate
8 ~~submit-bids~~ include managed care organizations licensed under
9 chapter 641, including entities eligible to participate in the
10 nursing home diversion program, other qualified providers as
11 defined in s. 430.703(7), community care for the elderly lead
12 agencies, and other state-certified community service networks
13 that meet comparable standards as defined by the agency, in
14 consultation with the Department of Elderly Affairs and the
15 Office of Insurance Regulation, to be financially solvent and
16 able to take on financial risk for managed care. Community
17 service networks that are certified pursuant to the comparable
18 standards defined by the agency are not required to be
19 licensed under chapter 641. Managed care entities who operate
20 the integrated program shall be subject to s. 408.7056.
21 Eligible entities shall choose to serve enrollees who are
22 dually eligible for Medicare and Medicaid, enrollees who are
23 60 years of age or older, or both.

24 (c) The agency must ensure that the
25 capitation-rate-setting methodology for the integrated program
26 ~~system~~ is actuarially sound and reflects the intent to provide
27 quality care in the least restrictive setting. The agency must
28 also require integrated-program ~~integrated-system~~ providers to
29 develop a credentialing system for service providers and to
30 contract with all Gold Seal nursing homes, where feasible, and
31 exclude, where feasible, chronically poor-performing



1 facilities and providers as defined by the agency. The
2 integrated program must develop and maintain an informal
3 provider grievance system that addresses provider payment and
4 contract problems. The agency shall also establish a formal
5 grievance system to address those issues that were not
6 resolved through the informal grievance system. The integrated
7 program system must provide that if the recipient resides in a
8 noncontracted residential facility licensed under chapter 400
9 or chapter 429 at the time of enrollment in the integrated
10 program system-is-initiated, the recipient must be permitted
11 to continue to reside in the noncontracted facility as long as
12 the recipient desires. The integrated program system must also
13 provide that, in the absence of a contract between the
14 integrated-program integrated-system provider and the
15 residential facility licensed under chapter 400 or chapter
16 429, current Medicaid rates must prevail. The
17 integrated-program provider must ensure that electronic
18 nursing home claims that contain sufficient information for
19 processing are paid within 10 business days after receipt.
20 Alternately, the integrated-program provider may establish a
21 capitated payment mechanism to prospectively pay nursing homes
22 at the beginning of each month. The agency and the Department
23 of Elderly Affairs must jointly develop procedures to manage
24 the services provided through the integrated program system in
25 order to ensure quality and recipient choice.

26 (d) Within-24-months-after-implementation, The Office
27 of Program Policy Analysis and Government Accountability, in
28 consultation with the Auditor General, shall comprehensively
29 evaluate the pilot project for the integrated, fixed-payment
30 delivery program system for Medicaid recipients created under
31 this subsection who are 60-years-of-age-or-older. The



1 evaluation shall begin as soon as Medicaid recipients are
2 enrolled in the managed care pilot program plans and shall
3 continue for 24 months thereafter. The evaluation must include
4 assessments of each managed care plan in the integrated
5 program with regard to cost savings; consumer education,
6 choice, and access to services; coordination of care; and
7 quality of care. The evaluation must describe administrative
8 or legal barriers to the implementation and operation of the
9 pilot program and include recommendations regarding statewide
10 expansion of the pilot program. The office shall submit its an
11 evaluation report to the Governor, the President of the
12 Senate, and the Speaker of the House of Representatives no
13 later than December 31, 2009 ~~June-30,-2008~~.

14 (e) The agency may seek federal waivers or Medicaid
15 state plan amendments and adopt rules as necessary to
16 administer the integrated program system. The agency may
17 implement the approved federal waivers and other provisions as
18 specified in this subsection ~~must-reeeive-specifie~~
19 ~~authorization-from-the-Legislature-prior-to-implementing-the~~
20 ~~waiver-for-the-integrated-system.~~

21 (f) No later than December 31, 2007, the agency shall
22 provide a report to the Governor, the President of the Senate,
23 and the Speaker of the House of Representatives containing an
24 analysis of the merits and challenges of seeking a waiver to
25 implement a voluntary program that integrates payments and
26 services for dually enrolled Medicare and Medicaid recipients
27 who are 65 years of age or older.

28 Section 2. Paragraph (d) of subsection (1) of section
29 408.040, Florida Statutes, is amended to read:

30 408.040 Conditions and monitoring.--

31 (1)



1 (d) If a nursing home is located in a county in which
2 a long-term care community diversion pilot project has been
3 implemented under s. 430.705 or in a county in which an
4 integrated, fixed-payment delivery program system for Medicaid
5 recipients who are 60 years of age or older or dually eligible
6 for Medicare and Medicaid has been implemented under s.
7 409.912(5), the nursing home may request a reduction in the
8 percentage of annual patient days used by residents who are
9 eligible for care under Title XIX of the Social Security Act,
10 which is a condition of the nursing home's certificate of
11 need. The agency shall automatically grant the nursing home's
12 request if the reduction is not more than 15 percent of the
13 nursing home's annual Medicaid-patient-days condition. A
14 nursing home may submit only one request every 2 years for an
15 automatic reduction. A requesting nursing home must notify the
16 agency in writing at least 60 days in advance of its intent to
17 reduce its annual Medicaid-patient-days condition by not more
18 than 15 percent. The agency must acknowledge the request in
19 writing and must change its records to reflect the revised
20 certificate-of-need condition. This paragraph expires June 30,
21 2011.

22 Section 3. Paragraph (b) of subsection (1) of section
23 409.915, Florida Statutes, is amended to read:

24 409.915 County contributions to Medicaid.--Although
25 the state is responsible for the full portion of the state
26 share of the matching funds required for the Medicaid program,
27 in order to acquire a certain portion of these funds, the
28 state shall charge the counties for certain items of care and
29 service as provided in this section.

30 (1) Each county shall participate in the following
31 items of care and service:



1 (b) For both health maintenance members and
2 fee-for-service beneficiaries, payments for nursing home or
3 intermediate facilities care in excess of \$170 per month, with
4 the exception of skilled nursing care for children under age
5 21.

6 Section 4. This act shall take effect July 1, 2007.

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9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 Delete everything before the enacting clause

12
13 and insert:

14 A bill to be entitled

15 An act relating to Medicaid; amending s.
16 409.912, F.S.; requiring the Agency for Health
17 Care Administration to implement federal
18 waivers to administer an integrated,
19 fixed-payment delivery program for Medicaid
20 recipients 60 years of age or older or dually
21 eligible for Medicare and Medicaid; providing
22 for voluntary enrollment in the program in
23 specified locations, in accordance with certain
24 requirements; providing eligibility for managed
25 care entities to operate the program; providing
26 for entities to choose to serve certain
27 enrollees; providing for the establishment of
28 informal and formal provider grievance systems;
29 requiring payment of certain nursing home
30 claims within a time certain; providing a
31 timeframe for evaluation of the program by the



Office of Program Policy Analysis and
Government Accountability; extending the
deadline for submission of the evaluation
report; authorizing the agency to seek Medicaid
state plan amendments; requiring the agency to
submit a report to the Governor and the
Legislature; amending s. 408.040, F.S.;
conforming terminology to changes made by the
act; amending s. 409.915, F.S.; requiring
counties to participate in Medicaid payments
for certain nursing home or intermediate
facilities care for both health maintenance
members and fee-for-service beneficiaries;
providing an effective date.

The Conference Committee Amendment for House Bill 7069 relating to the Pari-mutuel Wagering Trust Fund specifies that slot machine license fees remain in the trust fund to support ongoing regulatory operations in the Department of Business and Professional Regulation. All unappropriated funds in excess of incurred obligations and funds necessary for cash flow in the subsequent year will be deposited into the General Revenue Fund at the end of the fiscal year.

Bill No. HB 7069



204868

CHAMBER ACTION

Senate

House

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The Conference Committee on HB 7069 recommended the following amendment:

Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (2) of section 550.135, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

550.135 Division of moneys derived under this law.--All moneys that are deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed as follows:

(2) All unappropriated funds in excess of \$1.5 million in the Pari-mutuel Wagering Trust Fund, collected pursuant to this chapter, shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(3) The slot machine license fee, the slot machine occupational license fee, and the compulsive or addictive gambling prevention program fee collected pursuant to ss.



551.106, 551.107(2)(a)1., and 551.118 shall be used to fund the direct and indirect operating expenses of the division's slot machine regulation operations and to provide funding for relevant enforcement activities in accordance with authorized appropriations. Funds deposited into the Pari-mutuel Wagering Trust Fund pursuant to ss. 551.106, 551.107(2)(a)1., and 551.118 shall be reserved in the trust fund for slot machine regulation operations. On June 30, any unappropriated funds in excess of those necessary for incurred obligations and subsequent year cash flow for slot machine regulation operations shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

Section 2. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to the Pari-mutuel Wagering Trust Fund; amending s. 550.135, F.S.; providing for the use of certain funds received from the regulation of slot machine facilities; requiring that unappropriated funds in excess of incurred obligations and funds necessary for cash flow in the subsequent year be deposited into the General Revenue Fund at the end of the fiscal year; providing an effective date.

The Conference Committee Amendment for House Bill 7085 relating to retirement establishes the employer contribution rates for the Florida Retirement System for FY 2007-2008. Specifically, the rates in effect for FY 2006-2007 are continued during FY 2007-2008. Beginning July 1, 2008, the contribution rates are increased to the actuarially sound rates determined by the annual valuation of the Florida Retirement System.

[illegible]

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For each employee membership class and subclass, the actuarial study shall establish a uniform rate necessary to fund the benefit obligations under both Florida Retirement System retirement plans, by dividing the sum of total dollars required by the estimated gross compensation of members in both plans.

(2) Based on the uniform rates set forth in subsection (3), employers shall make monthly contributions to the Division of Retirement, which shall initially deposit the funds into the Florida Retirement System Contributions Clearing Trust Fund. A change in a contribution rate is effective the first day of the month for which a full month's employer contribution may be made on or after the beginning date of the change.

(3) Required employer retirement contribution rates for each membership class and subclass of the Florida Retirement System for both retirement plans are as follows:

	Percentage of Gross Compensation, Effective	Percentage of Gross Compensation, Effective
Membership Class	July 1, <u>2007</u> 2006	July 1, <u>2008</u> 2007
Regular Class	8.69%	<u>9.59%</u> 9-55%
Special Risk Class	19.76%	<u>22.01%</u> 21-96%
Special Risk Administrative Support Class	11.39%	<u>11.90%</u> 12-65%
Elected Officers' Class-- Legislators, Governor, Lt. Governor,	13.32%	<u>14.99%</u> 14-80%



1	Cabinet Officers,		
2	State Attorneys,		
3	Public Defenders		
4	Elected Officers' Class--	18.40%	<u>20.46%</u> 20.44%
5	Justices, Judges		
6	Elected Officers' Class--	15.37%	<u>17.15%</u> 17.08%
7	County Elected Officers		
8	Senior Management Class	11.96%	<u>13.35%</u> 13.29%
9	DROP	9.80%	10.89%

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11 (4) The state actuary shall recognize and use an
 12 appropriate level of available excess assets of the Florida
 13 Retirement System Trust Fund to offset the difference between
 14 the normal costs of the Florida Retirement System and the
 15 statutorily prescribed contribution rates.

16 Section 2. The Legislature finds that a proper and
 17 legitimate state purpose is served when employees and retirees
 18 of the state and its political subdivisions, and the
 19 dependents, survivors, and beneficiaries of such employees and
 20 retirees, are extended the basic protections afforded by
 21 governmental retirement systems. These persons must be
 22 provided benefits that are fair and adequate and that are
 23 managed, administered, and funded in an actuarially sound
 24 manner, as required by Section 14, Article X of the State
 25 Constitution, and part VII of chapter 112, Florida Statutes.
 26 Therefore, the Legislature determines and declares that this
 27 act fulfills an important state interest.

28 Section 3. This act shall take effect July 1, 2007.

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Bill No. HB 7085



842652

1 ===== T I T L E A M E N D M E N T =====
2 And the title is amended as follows:
3 Delete everything before the enacting clause
4
5 and insert:
6 A bill to be entitled
7 An act relating to retirement; amending s.
8 121.71, F.S.; revising the payroll contribution
9 rates for the membership classes of the Florida
10 Retirement System for the state fiscal years
11 effective July 1, 2007, and July 1, 2008;
12 providing a declaration of important state
13 interest; providing an effective date.
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